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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1945

No. 114

GRACE MARSH, APPELLANT,

vs.

THE STATE OF ALABAMA

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF ALABAMA

FILED JUNE 6, 1945.

SUPREME COURT OF THE UNITED STATES

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[fol. 1] [Caption omitted]

IN INFERIOR CRIMINAL COURT OF MOBILE COUNTY

COMPLAINT

THE STATE OF ALABAMA,
County of Mobile:

Personally appeared before me, Wm. J. Kern, Clerk of the Inferior Criminal Court of Mobile County, A. I. Chatham who, on being sworn, deposes and says that he has probable cause for believing, and does believe, that within the past 12 months Grace Marsh without legal cause or good excuse and after having been warned within the past six months not to do so, entered upon the premises of the Gulf Shipbuilding Corporation, a corporation contrary to law and against the peace and dignity of the State of Alabama, and prays for a warrant for the arrest of the said Grace Marsh.

A. I. Chatham.

Sworn to and subscribed before me this 27 day of December, 1943. W. J. Kern, Clerk of the Inferior Criminal Court of Mobile County.

IN INFERIOR CRIMINAL COURT OF MOBILE COUNTY

WARRANT

The State of Alabama, County of Mobile, to the Sheriff of Mobile County:

Complaint on oath having been made before me that the offense of Trespass and described in the affidavit on file in this court has been committed, and accusing Grace Marsh thereof, you are therefore commanded forthwith to arrest and bring her before the Judge of the Inferior Criminal Court of Mobile County.

Dated 27 day of December, 1943.

(Signed) W. J. Kern, Clerk of the Inferior Criminal Court of Mobile County.

Executed this the 24 day of Dec. 1943.
Admitted to bail in the sum of $——.
By Wm. H. Holcombe, Sheriff of Mobile County.
By A. I. Chatham, Deputy Sheriff.

[fols. 2-3] IN THE INFERIOR CRIMINAL COURT OF MOBILE COUNTY

No. 19862

STATE OF ALABAMA

vs.

GRACE MARSH

Charge, Trespass; Warrant and Affidavit Issued, 12/27/43; Executed, 12/24/43; Complainant, A. I. Chatham

CERTIFICATE OF JUDGMENT

The defendant having been arraigned and pleaded not guilty the Court on hearing the evidence in this case is satisfied of the guilt of the defendant and it is considered and adjudged by the Court that the defendant is guilty wherefore the Court awards the following punishment: That the defendant pay a fine of $50.00 Dollars and the costs of these proceedings, and that in default of the payment of said fine and costs, the defendant be imprisoned in the Mobile County Jail as follows—20 days for failure to pay the fine.

January the 6th, 1944.

Tisdale J. Touart, Judge of the Inferior Criminal Court of Mobile County.

Notice of Appeal 1/6/44. Bond $100.00. Released on Bond 1/6/44.

Clerk's Certificate to foregoing paper omitted in printing.

[fol. 4] IN THE CIRCUIT COURT OF MOBILE COUNTY, ALABAMA

STATE OF ALABAMA, Plaintiff,

vs.

GRACE MARSH, Defendant

On Appeal from the Inferior Criminal Court for Mobile County, Alabama

PLEAS—Filed January 22, 1944

Now comes the Defendant —— —— and for answer to the complaint herein, says:

1. That she is not guilty.

2. Defendant says that at the time she is alleged to have committed the offense with which she is charged in this cause, she was engaged in distributing pamphlets known as the "Consolation & Watchtower" published by the Watchtower Bible and Tract Society, a religious organization, said pamphlet being devoted to the dissemination and perpetuation of the religious belief of the Defendant and of others known as Jehovah's Witnesses; that she was a duly ordained minister and the act of so distributing the pamphlets or magazines was a part of her religious duties and obligations and was done in accordance with and pursuant to her religious beliefs and convictions and in her belief in obedience to the command of Almighty God; was not for financial benefit or gain and was solely for the purpose of promoting the spread of the Gospel of the Kingdom of Jehovah God under Christ Jesus, in accordance with her understanding of the Holy Scriptures; and she further says that the prosecution of this cause was based upon the doing of the things and acts described hereinabove and because of the doing of said acts and not for having violated any laws of the State of Alabama, and she denies that she, without legal cause or good excuse, entered upon the premises of the Gulf Shipbuilding Company, a corporation, within the contemplation of the statute of the State of Alabama, after having been warned not to do so.

3. For further answer to the complaint the defendant says that during World War One, and in, to-wit, the year 1918, the lands, a part of which is involved in this cause,

was platted and laid off into lots and streets, That on much of said property homes and residences were located. That on a portion of the property, were erected buildings to be used for business purposes, to-wit, a drug store, a grocery store, a barber shop and a United States Post Office known as the Chickasaw, Alabama, Post Office. That a sidewalk, to-wit, ten feet in width, was erected in front of said buildings, and a road and driveway in front thereof [fol. 5] parallel with the public highway running north and south in front on said point and within thirty-five feet from said sidewalk. That said business houses were open to the residents of said subdivision and to the general public. That subsequent to the signing of the Armistice, operation in what was known as the Chickasaw Shipbuilding Company ceased and the buildings located on said subdivision were thrown open to and were rented to the general public, whether employed by the owners of said property or not, the business houses leased to tenants and business continued to be conducted therein, and the sidewalk and driveway in front thereof continued to be used indiscriminately by the general public without restriction. That such use continued without let up or cessation and without any interference on the part of the owners of said property until, to-wit, the month of December, 1943. That in, to-wit, the month of December, 1943, this defendant and others associated with him or her went upon the sidewalk in front of said business houses as aforesaid, to-wit, the drug store, the grocery store, the laundry station, the United States Post Office, and the barber shop, and engaged in distributing pamphlets known as the "Consolation" published by the Watchtower Bible and Tract Society, a religious organization, said pamphlet being devoted to the dissemination and perpetuation of the religious belief of the defendant and of others known as "Jehovah's Witnesses"; that he was a duly ordained minister of said organization and in so doing he acted in accordance with and pursuant to his religious beliefs and convictions and, in his belief, in obedience to the command of Almighty God, and that the act of so distributing the pamphlets was a part of his religious duties and obligations and was not for pecuniary benefit or gain, and was solely for the purpose of promoting the spread of the Gospel of Jesus in accordance with his understanding of the Holy Scriptures; and he further says that the prosecution in this cause is

based upon the doing of the acts as described hereinabove, and because of the doing of said acts and not for having created any disorder, disturbance or in anywise interfered with the rights of others, and he denies that he committed any trespass upon or that he entered upon the premises of the Gulf Shipbuilding Company a corporation, after warning, within the contemplation of the statutes of the State of Alabama, under which this prosecution is brought, but says and shows as aforesaid, that at the time of the doing of the acts the basis of his arrest in this cause, he was en- [fol. 6] gaged in his ministerial duties as aforesaid in the exercise of the rights guaranteed to him by the Constitution of the United States and of the State of Alabama, in an orderly and proper manner at a place devoted to the use of and used by the general public indiscriminately and without restriction continuously for much more than twenty years prior to the month of December, 1943.

4. For further answer to the complaint herein the defendant says that at the time of the doing of the act, the basis of his arrest in this cause, he was a memeber of the Society known as "Jehovah's Witnesses" and an ordained minister, and was engaged in his ministerial duties as such in distributing magazine known as the "Watchtower and Consolation" published by the Watchtower Bible and Tract Society, a religious organization, said pamphlets being devoted to the dissemination and perpetuation of the religious belief of the defendant, at a point on a concrete sidewalk constructed in front of certain buildings in the village or Town of Chickasaw, Mobile County, Alabama, known as the Business Block thereof, and fronting upon which were buildings occupied by a drug store, a barber shop, a grocery store, the office of a dry cleaning establishment, a United States Post Office and other commercial business, all of which said business houses were leased and rented to others than the Gulf Shipbuilding Company, a corporation, without restrictions as to the said sidewalk; that said sidewalk had been for a long time, was then, and is now, being used indiscriminately by the general public for the purpose of going to and from said business houses, and as a part of the street or highway.

5. For further answer to the complaint the defendant says that the statute under which this prosecution is brought as applied by the Public Authorities charged with its ad-

ministration in the County of Mobile in this cause, is void and unconstitutional in that it deprives him of the religious freedom and of the rights guaranteed to him by the 14th Amendment to the Constitution of the United States of America, and it deprives him of the right to distributing pamphlets known as the "Watchtower & Consolation" published by the Watchtower Bible Tract Society, a religious organization, as more particularly set forth in Plea Two hereof, which is by reference incorporated herein and made a part hereof as fully as if here set out in extenso.

[fol. 7] 6. For further answer to the complaint defendant says that the statute under which this prosecution is brought, as applied by the authorities charged with its administration in this cause, is void and unconstitutional as to him in that it deprives him of the rights guaranteed to him by the 14th Amendment to the Constitution of the United States and of the State of Alabama, in that it works an unjust and unfair discrimination as against him in that the authorities charged with the administration of said statute permit the indiscriminate use of the sidewalk, the premises whereon he was arrested, and is charged with having trespassed, as a passageway and street by the general public for the purpose of going to and from the United States Post Office, the drug store and other business houses located on said sidewalk, and permit the members of the general public to stand and be upon said sidewalk, all without molestation or interference, and defendant says that the enforcement of said ordinance in such manner constitutes an unjust and illegal discrimination between himself and others in similar circumstances material to his rights, and constitutes a denial of equal justice within the provisions of the Constitutions aforesaid.

D. R. Coley, Jr., Attorney for Defendant. G. C. Powell, Attorney for Defendant.

[File endorsement omitted.]

IN CIRCUIT COURT OF MOBILE COUNTY

STATE'S MOTION TO STRIKE PLEAS—Filed January 26, 1944

Now comes the State of Alabama, acting by and through its Solicitor for Mobile County, Carl M. Booth, and moves the Court, separately and severally, as to each plea here-

inafter mentioned, to strike Pleas Two, Three, Four, Five and Six filed by the Defendant, and in support of this motion assigns the following separate and several grounds:

One

Said plea is frivolous.

Two

Said plea is, in legal effect, no more than a plea of not guilty, and adds nothing to the plea of not guilty on file by this defendant.

[fol. 8]

Three

The affidavit and warrant on which this prosecution is based charged the defendant with having committed a criminal trespass after warning, and the issue is merely whether or not the defendant is guilty of the offense charged, which has been raised by the plea of not guilty filed by the defendant.

Four

Said plea does not contain allegations of fact constituting a defense to the prosecution other than insofar as they amount to a plea of not guilty.

Five

Said plea is no more than a plea of not guilty, coupled with a statement of evidence in support of the denial of guilt.

Six

Said plea sets forth a statement of facts and evidence which, if admissible in evidence on the trial of the cause, would be admissible only in support of the general denial of guilt already on file by the defendant.

Seven

Said plea consists of an argument in support of the defendant's plea of not guilty, and such facts as are contained therein do not present any special defense.

Eight

The only matter contained in said plea which may properly be set out as a defense to the prosecution is the denial

contained therein of the charge of trespassing after warning, and said plea, therefore, adds nothing of legal effect to the plea of not guilty.

Carl M. Booth, Solicitor, State of Alabama, County of Mobile.

[File endorsement omitted.]

IN CIRCUIT COURT OF MOBILE COUNTY

[Title omitted]

ORDER; STATE'S MOTION TO STRIKE PLEAS GRANTED AS TO ALL PLEAS EXCEPT PLEA OF NOT GUILTY AND DEFENDANT EXCEPTS—January 27th, 1944

[fol. 9] This day in open court came the State of Alabama by its Solicitor and the defendant in her own proper person and with her attorneys and State's motion filed January 26th, 1944, to Strike Defendant's Pleas coming on to be heard and being argued by counsel an understood by the court; It is ordered and adjudged by the court that the State's said motion filed January 26th, 1944, to strike pleas be and the same is hereby granted to all pleas except Plea of Not Guilty.

And to which ruling of the court Defendant excepts.

IN CIRCUIT COURT OF MOBILE COUNTY

WAIVER OF ARRAIGNMENT, PLEA OF NOT GUILTY, JUDGMENT, SENTENCE, NOTICE OF APPEAL AND SUSPENSION OF EXECUTION OF SENTENCE PENDING APPEAL—January 27th, 1944

This day in open court came the State of Alabama by its Solicitor and the defendant in her own proper person and with her attorneys and the defendant in open court on this day waived arraignment on the original affidavit in this case charging her with the offense of Trespass and plead not guilty, and the trial of this case having been regularly set for this day, and no trial by jury having been demanded by the defendant, this case is tried by the court without the intervention of a jury, and the court after hearing the evidence in this case renders judgment finding the defendant

guilty of Trespass as charged in the original affidavit and further found that the defendant be fined $50.00.

Thereupon in open court on this day the defendant being asked by the court if she had anything to say why the judgment and sentence of the law should not be passed upon her replied "she had not": It is therefore considered and adjudged by the court that the defendant is guilty of the offense of Trespass as charged in the original affidavit and that the State of Alabama for the use of Mobile County have and recover of the defendant a fine of Fifty Dollars and the costs of this prosecution.

And the defendant having made default in the payment of the said fine and costs; it is ordered and adjudged by the [fol. 10-13] court that the defendant be imprisoned in the Mobile County Jail for the term of twenty days in lieu of said fine.

Thereupon in open court on this day at the time of the sentence the Defendant gave notice of appeal and moved the court to suspend the execution of sentence pending appeal and to fix the amount of the Appeal Bond; it is therefore considered and adjudged by the court that execution of the sentence in this case be and the same is hereby suspended pending appeal and that the amount of the appeal bond be and the same is hereby fixed at $500.00.

[fol. 14] IN COURT OF APPEALS OF ALABAMA

WRIT OF CERTIORARI—Filed July 5, 1944

To the Clerk of the Circuit Court of Mobile County, Greetings:

Whereas, In a case now pending in our Court of Appeals from the judgment of said Circuit Court of the date of January 27, 1944, between Grace Marsh, defendant, and State of Alabama, plaintiff, Circuit Court No. 5197, the said defendant filed a petition suggesting a diminution of the record and has prayed that a writ of certiorari issue directing that all the records and proceedings, including the official court reporter's transcript of the testimony in said cause, be certified to this court for review and has obtained an order for such writ.

We therefore command you to make diligent search of the records and proceedings in your office in the above cause, and certify, together with this writ, a full and complete transcript of said records and proceedings and make return hereto to the next regular term on Monday, October 30, 1944, of our said Court of Appeals at Montgomery.

Witness, Charles Bricken, Jr., Clerk of the Court of Appeals of Alabama, at the Capitol, this 30th day of June, 1944.

Charles Bricken, Jr., Clerk, Court of Appeals of Alabama.

(File endorsement omitted.)

[fol. 15] IN THE CIRCUIT COURT OF MOBILE COUNTY

No. 5197

STATE OF ALABAMA

vs.

GRACE MARSH

Transcript of Evidence

Note: There are six of these cases, and it was agreed to try all the cases together.

The following is a transcript of the proceedings had in the foregoing styled cause, before the Hon. D. H. Edington, without a jury, on the 27th day of January, 1944:

APPEARANCES:

F. J. Inge, Esq., Special Counsel, and Carl Booth and T. O. Howell, for State.

D. R. Coley, Jr., Esq., and Grover C. Powell, Esq., Atlanta, Ga., for Defendants.

It was agreed that in the cases of Cora Smith, Mittie L. Williamson, and Alberta Rouse, we will proceed with the trial of the cases as though the same pleadings were filed in those cases as have been filed in the other three cases, and the same motion to strike on the part of the State.

By Mr. Coley: In view of the ruling of the Court in striking the pleas, we will not consent to go to trial on these original affidavits.

By the Court: I am sorry because you will have to go to trial on them; you have already filed pleas to them and the Court had made its ruling on the pleas before you refused to go to trial on them.

Defendants reserved an exception to the ruling of the Court.

The Witnesses were duly sworn by the Court, and the Defendants asked for the rule, and the witnesses were excluded from the Court room.

By Mr. Coley: May it please the Court, Mr. G. C. Powell of Atlanta, has been introduced to your Honor, and he will take part in these cases.

By the Court: Yse sir.

A. I. CHATHAM, a witness for the State, after having been [fol. 16] first duly sworn, testified as follows:

Direct examination.

By Mr. Inge:

Q. What is your name?

A. A. I. Chatham.

Q. Mr. Chatham, what is your present occupation or employment?

A. I am working for the Gulf Shipbuilding Corporation and a Deputy Sheriff, deputized through the Sheriff.

Q. You are deputized by the Sheriff of Mobile County, Alabama?

A. Yes, sir.

Q. And employed by the Gulf Shipbuilding Corporation?

A. Yes, sir.

Q. What were your duties there during the month of December, 1943, were you employed in those capacities at that time?

A. Yes sir; police officer out there and carrying out the duties as required and as the office advised me.

Q. You carried out police duties with reference to the properties of the Gulf Shipbuilding Corporation?

A. Yes, sir.

Q. Mr. Chatham, did you file an affidavit for a warrant on the 27th of December, 1943, in the Inferior Court against Grace Marsh?

A. Yes, sir.

Q. And against Cora Smith?

A. Yes, sir.

Q. And against Aline Stephens?

A. Yes, sir.

Q. Mittie Williamson?

A. Yes, sir.

Q. Alberta Rouse?

A. Yes, sir.

Q. And Joseph Marsh?

A. Yes, sir.

Q. Prior to that date, prior to December 27th, 1943, had you arrested those six named defendants?

A. Well, I had them over to the Police Station; I never did make no charge against them; I taken them over and tried to get them to leave and they wouldn't do it, and I did bring them down to the docket room one day.

Q. What day was that?

A. I would say on the Saturday before, I don't remember that date, Mr. Inge, a couple of weeks before then, I would say a week before.

Q. I don't think you understand my questions; you say you brought these people down to the Sheriff's Office?

A. Two of them.

Q. Do you remember an occasion when you brought all of them down?

A. Yes, sir.

Q. That is what I am asking you about?

A. Yes sir, on December 24th.

[fol. 17] Q. December 24th, 1943?

A. Yes, sir.

Q. Is that the occasion on which you arrested these six defendants?

A. Yes, sir.

Q. Where were they at the time you placed them under arrest?

A. They were on the sidewalk in front of the business block.

Q. Where?

A. On the sidewalk.

Q. In front of the business block where?

A. Oh! let me see——

Q. Where is the business block?

A. It is at Chickasaw.

Q. Is that in Mobile County, Alabama?

A. Yes sir.

Q. That was on the 24th of December that you arrested them there?

A. Yes sir.

Q. And as I understood you later and on the 27th of December, 1943, you filed a formal complaint against them in the Inferior Court of Mobile County, Alabama?

A. Yes sir.

Q. Mr. Chatham, will you examine this paper that I hand you that purports to be a notice, written notice, by Gulf Shipbuilding Corporation—just a minute, let me show it to defense attorneys. Will you state to the Court whether or not that is a notice that had been posted on that business block at any time?

Defendants object as leading, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

A. Yes sir, this was posted on several of the windows or different parts of the businesses.

Defendants move to exclude the answer on the same ground, and the Court refused the motion, and Defendants reserved an exception to the ruling of the Court.

Q. That same written notice, other copies of that, were posted in the stores, how were they posted, Mr. Chatham?

Defendants object on the same ground, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

A. They were posted on the windows in front of the buildings.

Q. Were they visible from the sidewalk?

A. Yes sir.

Q. Had you seen them there?

A. Yes sir.

Q. How long had those notices been posted in the store windows to the best of your knowledge?

[fol. 18] A. At that time I would say around four weeks to a month, something like that; I don't remember the exact time.

Q. What date do you refer to, at that time?

A. December 24th.

Q. Mr. Chatham, on December 24th, prior to the arrest of these defendants, did you have any conversations with them?

A. Yes sir.

Q. What were they doing at the time you had your conversation?

A. Well, there were three of them, I believe; you want me to specify the names?

Q. Yes sir?

A. Mrs. Marsh, Mrs. Stephens and Mrs. Williamson, I believe, were on the sidewalk. One of them in front of the drug store, and one down in the middle of the block, I will say around the Laundry, and the other down by Delchamps, selling the pamphlets, or Concolation or Watchtower, something, those pamphlets.

Q. Did you see the other three defendants at that time?

A. We taken those three in the car, and was fixing to go to the office with them, to the police station, and we decided to make the block, and I drove around the business block, and then the other three had taken their places.

Q. The other three had taken their places after you had removed them?

A. Yes sir, after I removed the first three.

Q. The other three defendants being tried here now you refer to?

A. Yes sir.

Q. Prior to taking Mrs. Marsh and Mrs. Stephens and I believe you said Mrs. Williamson, the first three, prior to their getting in the car did you have any conversation with them; if so, state what conversation you had?

A. I asked them to leave the property, that we didn't allow any soliciting or selling without a permit, and they refused; said they didn't have to have one, that their Jehovah God gave them permission to do what they were doing, and I told them I would have to put them under arrest if they refused to leave, and they said all right.

Q. Were those signs posted conspicuously in the windows at that time?

A. Yes sir.

Q. You requested them to leave and they refused to do so?
A. Yes sir.

[fol. 19] Q. When you came back around the block and found the other three in their places, did you have any conversation with them?

A. About the same conversation, about the same words.

Q. Did they likewise refuse to leave the property?
A. Yes sir.

Q. Did you state to them that that was private property?
A. Yes sir.

Q. Did you state whose property it was?

Defendants object as incompetent, irrelevant and immaterial, and calls for a statement by him of a matter he is not shown to know anything about, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

A. Yes sir, I warned them it was the Gulf Shipbuilding Corporation's property.

Q. That all happened in Mobile County, Alabama, and within six months prior to the filing of these complaints, these affidavits?

A. Yes sir.

Q. Mr. Chatham, how long have you been employed by the Gulf Shipbuilding Corporation in that capacity?

A. Ever since the Corporation has been out there.

Q. You don't recall that date?

A. I was there when they came there.

Q. And you were employed by them as soon as they took the property over?

A. Yes sir.

Q. What have been your duties throughout that time?

Defendants object as incompetent, irrelevant and immaterial.

By Mr. Inge: That is for the purpose of showing his familiarity with the ownership of that property and for that period of time this corporation has exercised its ownership over this property.

The Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

A. As police officer and deputy sheriff.

Cross-examination.

By Mr. Powell:

Q. Mr. Chatham, I believe you said that you arrested Mrs. Marsh, Mrs. Stephens and Mrs. Williamson on December 24th?

A. That is right.

[fol. 20] Q. And you took them down to jail and locked them up in jail, did you not?

A. Yes sir.

Q. What time of day was that, Mr. Chatham?

A. Oh! around three o'clock.

Q. In the afternoon?

A. Yes sir.

Q. When you locked them up——

A. When I arrested them I brought them right on down.

Q. You made no effort to swear to a complaint at the time, did you, Mr. Chatham?

A. No sir.

Q. Was any effort made on their part to secure bail at that time?

A. I don't know.

State objects as immaterial.

Q. Mr. Chatham, you didn't swear to any complaint until the Monday following?

A. That is right, December 27th.

Q. Why did you wait so long?

A. Well, it was a holiday——

State objects as immaterial, and the Court sustained the objection, and Defendants reserved an exception to the ruling of the Court.

By Mr. Powell:

I would like to state that the purpose of this question is to show the attitude of the witness and his interest or lack of interest in the case.

A. What was it you wanted to know.

Q. Read the question? (Question was read to the witness.)

A. It was during the Holidays, the 25th was Christmas, and the 26th was Sunday; that was the only reason I guess that I know.

Q. You brought these same people down prior to this date, did you not, and the Sheriff refused to docket them?

A. No sir.

Q. Did you bring any of the six down prior to this date?

A. Two of them, I believe; Mrs. Marsh and Mrs. Stephens.

Q. Did the Sheriff refuse to docket them?

A. No sir.

Q. Did he refuse to lock them up in jail?

A. No sir; I brought them down there and had to leave them in the docket room, and left them up to Miss Farmer.

Q. What became of the case?

A. I don't know.

Q. You know they were not held?

A. That is right.

Q. Then they did refuse to docket them?

[fol. 21] A. I don't know whether he refused or not.

Q. Did you swear out a warrant for them on the first occasion?

A. No sir.

Q. Did you make any effort to swear out a warrant on that occasion?

A. No sir.

Q. Why did you bring them down, Mr. Chatham?

A. I can't answer that, because I just brought them down; I was told to bring them down there, and left them in charge of Miss Farmer.

Q. Who advised you that?

A. Mr. Peebles, and she would know what to do with them, and that was the part I did; what happened, I don't know.

Q. Mr. Peebles is connected with the Gulf Shipbuilding Company is he not?

A. Yes sir.

Q. Is he Vice-President of the Company?

A. Yes sir.

Q. And Director of the Housing Division out there?

A. Yes sir.

Q. What date was that?

A. I cannot say what date it was because I don't remember.

Q. Was that the only time you ever brought Mrs. Marsh down prior to December 24th?

A. Yes sir.

Q. You did not bring her on a previous occasion?

A. No sir.

Q. You are sure you did not bring her on December 11th?

A. Well, that might have been the date I am talking about; I don't remember the date.

Q. If that was the date you have reference to, didn't you bring her down again on the 18th of December?

A. I only brought her once before that; I don't remember what date.

Q. Did you bring them every time they were brought down prior to this date?

A. I can't answer that because I don't know; I only work in shifts out there; I don't know what the others may do.

Q. Were you on every Saturday afternoon shift?

A. At that time I was working days.

Q. Did that include Saturday afternoons?

A. Until four o'clock.

Q. If they were brought down during that time you wouldn't know about it?

A. Yes sir, between eight and four.

Q. Is it true, Mr. Chatham, that you arrested Grace Marsh and Aline Stephens on the 11th day of December and took them to the office of the Gulf Shipbuilding Company and held them in the office for a number of hours and [fol. 22] released them without taking them to the Sheriff's Office?

State objects as immaterial.

A. I don't remember the exact date but I did bring them over to the office one time.

Q. How long did you hold them in the office?

A. Approximately an hour, I would say; they stayed around there quite a while and talked to us.

Q. Who assisted you in bringing them down on that occasion?

A. Mr. Battiste.

Q. You put them in the car?

A. Yes sir.

Q. With the assistance of who?

A. Mr. Battiste, he works with me.

Q. And held them there for several hours?

A. No sir, not several hours.

Q. How long?

A. I would say approximately an hour.
Q. Who talked to them on that occasion?
A. I did.
Q. Who else?
A. There were several around there but I was the only one that had any interest in the case.
Q. Who else were there?
A. The firemen and the police; the whole crowd.
Q. Who were they?
A. Mr. Stafford was one of the firemen, Mr. Murphy, he was a fireman, and Mr. Battiste, he was the other officer.
Q. Any one else?
A. No sir.
Q. Did you arrest them on that occasion at the instance of Mr. Peebles?
A. Our instructions were if any time they were on the block to take them off of the property.
Q. By whom?
A. By Mr. Peebles.
Q. These people were standing on the side walk on each of the occasions of the arrest, were they not, on December 11th, December 18th, and December 24th, they were standing out on the sidewalk?
A. I can verify December 24th, but those other dates I cannot verify them.
Q. You took them down to the office?
A. On one occasion.
Q. And to the Sheriff's Office on another occasion?
A. I can't verify those dates because I don't remember.
Q. But you remember the two occasions?
A. One time I brought them down——
Q. Were they on Saturdays each time?
A. Yes sir.
[fol. 23] Q. Were they on the sidewalk each time?
A. Yes sir.
Q. They were not in the stores?
A. No sir.
Q. But out on the sidewalk?
A. Yes sir.
Q. What were they doing, Mr. Chatham?
A. Selling their pamphlets, The Consolation and The Watchtower, offering them for sale.
Q. Were they giving them away?
A. I don't know.

Q. You don't know whether they were selling them or not?

State objects as immaterial, and the Court sustained the objection, and Defendants reserved an exception to the ruling of the Court.

By Mr. Powell:

We except to the ruling on the ground that the notice which has been introduced opens up the question of sale.

Q. How long have you lived out there on the Gulf Shipbuilding Corporation, out on their property, do you live on their property?

A. Yes sir.

Q. How long have you lived there?

A. Twelve years.

Q. Did they own it that long?

A. No sir.

Q. How long have they owned it?

A. They bought it in forty, I don't remember the date.

Q. Wasn't that forty-one?

A. I can't answer that.

Q. You are not sure whether it was forty or forty-one?

A. I am not sure; I think they bought it in forty, and they put me to work.

Q. You don't know whether it was this year or last year or forty-one?

A. I was working for the other Company and I was put on their pay roll.

Q. You don't know anything about the title to the property?

A. No sir.

Q. You don't know who owns it as far as the title is concerned?

A. I don't have anything to do with the title.

Q. When you said it belonged to them, you didn't mean to say that the title was in them, because you don't know how the title reads, you have never read it, have you?

A. No sir.

Q. Then when you said the title was in them you didn't mean to say that you knew how the title read or who it was in, did you?

A. Well, I have Mr. Peebles——

[fol. 24] Q. From your own knowledge you did not know, did you; you never have read the title to the property?

A. I have never read it; in my own mind I am sure it belongs to them.

Q. You don't know who owns the property as far as you are concerned and as far as the actual title is concerned, do you?

A. I can't answer that yes or no.

Q. Why can't you answer that?

A. Because I have never read the title.

State objects to him arguing, and the Court sustained the objection.

Q. Why can't you answer that?

A. My capacity don't require me to do that.

Q. What capacity is that that restricts your requirements?

A. Well, Mr. Peebles, I am working for Mr. Peebles.

Q. Is that the reason you won't tell because you will involve Mr. Peebles in this matter?

State objects to that, and the Court sustained the objection.

Q. Is it because you don't desire to do it, is that the reason you won't make an answer to that question?

A. I just don't think by not reading the title I cannot answer correctly yes or no.

Q. You just don't know, you have never read it?

A. No sir.

Q. And you don't know how it reads or anything about it?

A. No sir, I don't know how it reads.

Q. And therefore you do not know?

By the Court: He has already stated that about three times.

By Mr. Powell:

Q. Who posted the notice that you say was posted?

A. I don't know.

Q. You didn't do it?

A. No sir.

Q. You don't know who they were posted by?

A. I know they were posted by some of the men but I can't say.

Q. You have no personal knowledge?
A. I don't know when they were put up there.
Q. Do you know by whom they were put up there?
A. No sir.
Q. Did you see them before they were put up?
A. No sir.
Q. The first you knew of them you saw them in the windows?
A. I was told by the office.
[fol. 25] Q. They were stuck on the window pane?
A. On the window glass.
Q. From the inside?
A. Yes sir.
Q. Since those notices have been up have the merchants continued to sell and offer for sale goods—let's see a copy of the notice please. Have the merchants in the stores—what stores were they in?
A. Those notices?
Q. Yes.
A. Barber Shop, Drug Store and Beauty Parlor and Dry Goods Store and Delchamps.
Q. How about the Post Office?
A. I don't remember.
Q. Do you mean by that there was none in the Post Office?
A. I don't remember there was one or not.
Q. How can you remember these other places so definitely?
A. I just happen to recall it.
Q. Have you been in the Post Office?
A. Yes sir.
Q. How many time since you first saw the notice?
A. I don't know; maybe every day.
Q. That is the United States Post Office?
A. Yes sir.
Q. Where the mail is posted and received by the people, that Post Office is used by people in the village?
A. Yes sir, general public.
Q. And that includes people outside of the village?
A. Anybody that wants to do business with them.
Q. Don't they use the sidewalk to go into the Post Office?
A. Yes sir.
Q. That is the same sidewalk you were describing upon which you arrested these defendants?
A. Yes sir.

Q. Since this notice was posted in Stafford's Place,—what kind of place is that?

A. What place is that?

Q. What was the first place you mentioned?

A. Barber Shop.

Q. The Drug Store, since it has been posted in the Drug Store, have you seen them offering for sale or selling any kind of merchandise?

A. Yes sir.

Q. They have continued that every day since the notice has been up?

A. Not every day, but usually every week-end.

Q. Do they close on Sunday?

A. No sir.

Q. I am talking about the drug store, the clerks in the drug store, they offer for sale in there items every day?

A. Yes sir.

Q. Have you made any case against them?

A. Against who.

[fol. 26] Q. Against the people who operate the drug store?

State objects as incompetent, irrelevant and immaterial, and the Court sustained the objection.

Q. The notice was posted inside the drug store on the glass?

A. Yes sir, on the inside.

Q. Now, we will take the dry goods store, they have continued to sell goods in the dry goods store since this notice was posted inside the dry goods store on the window?

State objects as incompetent, irrelevant and immaterial. Objection was withdrawn.

A. Yes sir, every day they offer goods for sale.

Q. Have any cases been made against them?

A. No sir.

Q. They have been notified to refrain from engaging in such activity, selling or offering for sale dry goods?

A. I wouldn't think so.

Q. And Delchamps, they have continued since the day the notice was posted in there to offer goods to the people?

A. Yes sir.

Q. Did you notify them to cease from doing so?

A. No sir.

Q. That that was private proverty and no selling or solicitation of any kind permitted?

A. No sir.

Q. During the twelve years that you have lived there this sidewalk you have described lays in front of this business block?

A. Yes sir.

Q. That is where you arrested them, on that sidewalk?

A. Yes sir.

Q. Has that sidewalk been continuously used by the general public during all of those twelve years you have lived there?

A. Yes sir.

Q. Are these the first people that have been arrested there offering a magazine or paper on the sidewalk?

A. The first ones that I have arrested, yes sir.

Q. Have you known of any others to be arrested there for that?

A. No sir.

Q. And you were an officer all during that time, were you not?

A. Yes sir.

Q. These notices you described are the first notices you know about having been posted, are they not?

A. Yes sir.

Q. This sidewalk is used you say by the general public, that is similar to the use that is put to in any small town of that size, is it not?

A. Yes sir, the general public use it.

[fol. 27] Q. How close is this business block to the highway, State Highway?

A. Oh! well, we have a street in front of it, between the highway and business block. I don't know how wide it is; it is a two way drive.

Q. How wide is the sidewalk?

A. I would say six or eight feet.

Q. Would you say it is ten feet wide?

A. No sir, I would say around eight feet.

Q. Paved isn't it like sidewalks here in this City and other cities you have been in?

A. Yes sir.

Q. And the people have been permitted to use it during the twelve years you have been there?

A. Yes sir.

Q. Without this sidewalk the business can't be used for stores?

A. If you take the sidewalk away you could still walk in the stores.

Q. The space occupied by the sidewalk, you would have to use that space?

A. If it is designated as a sidewalk you would have to use it, yes sir.

Q. Are newspapers sold in that block?

A. Yes sir.

Q. By news boys?

A. Yes sir.

Q. How long has that been done, during all the twelve years you have lived there?

A. No sir.

Q. How long has it been done?

A. Oh! I would say, I don't remember, a year or so, something like that; since they got quite a few people out there.

Q. What is the population within a radius of two miles of that business block, do you know, Mr. Chatham?

A. I don't know.

Q. Is it much population comparatively speaking?

A. I would say yes.

Q. Thickly settled, is it?

A. Yes sir, but the Gulf, that is not including all the Gulf's property I am speaking of.

Q. The Gulf's property is settled and then adjacent property is settled, and you can't tell when you leave the Gulf property and go into the other as far as the lines are concerned and the buildings are concerned, is that right?

A. Yes, I can, but I don't know whether the general public can or not.

Q. How do you know that?

A. I know just about where the property lines are.

Q. If you didn't know where the property lines were you couldn't tell otherwise, could you?

A. No sir.

[fol. 28] Q. You really don't know where the property lines are?

A. No sir.

Q. Just what you have been told?

A. Yes sir.

Q. The street you described as running in front of this business block, doesn't it have an opening at each end running into the State Highway?

A. Yes sir.

Q. And any one traveling the State Highway is at liberty to come in there?

A. Yes sir.

Q. And stop and do such trading as they may have to do in this business block?

A. Yes sir, as long as they don't try to sell anything or peddle anything.

Q. Answer my question?

A. Yes sir.

Q. They can go in the Post Office and go in the Barber Shop and get a haircut and shampoo?

A. Yes sir.

Q. And go in the Beauty Parlor and get their coiffure?

A. Yes sir.

Q. And go into Delchamps and buy groceries?

A. Yes sir.

Q. And the drug store and buy anything they have to sell in there, as far as you are concerned, or any others?

A. Yes sir.

Q. Do you have a copy of The Watchtower that you say the people were offering at that time?

A. No sir.

Q. Do you have a copy of The Consolation?

A. No sir.

Q. These two magazines are devoted to Scriptural matters, are they not?

A. I can't say.

Q. You have never seen one of them?

A. I am not very well acquainted with them; I have just glanced through them.

Q. Did you see Scriptural references when you glanced through them?

A. I didn't notice them; I just know it is some kind of pamphlet with reference to the Jehovah God, and so on.

Q. Was that The Watchtower or The Consolation?

A. Well the Watchtower and the Consolation.

Q. Both of them. Did you discuss anything about this case while with any of the other witnesses while you were outside after Court convened?

A. Sir?

Q. Did you discuss any matters with any of the other witnesses while you were out under the rule?

State objects to that because he hasn't been out under the rule. He was invited by the Solicitor to go into his office and I object to him going into anything like that at this time. The question was withdrawn.

[fol. 29] Q. Did you discuss this matter with any of the others?

A. No sir.

Q. Did you hear any of the other witnesses make any statements about the case while you were out on that occasion?

A. No sir.

Q. Did you hear any of the other witnesses make any statements at all?

A. No sir.

Q. Did they open their mouths while they were in there?

A. There were a few words said, general conversation.

Q. Who said that?

A. Mr. Inge and Mr. Peebles and myself.

Q. What did Mr. Peebles say?

A. I don't remember.

Q. Can't remember one word he said?

A. I cannot verify just what the conversation was.

Q. But you heard him make some statements while he was in there?

A. We certainly didn't sit up there and keep our mouths closed all the time.

Q. You didn't make any statements?

A. I must have said something.

Q. And it was in the presence of Mr. Peebles and the others?

A. That is right; we were all in the same room in there.

Q. That was relative to the case?

A. No sir, I won't answer that; I don't know whether it was or not.

Q. You can't answer that?

A. No sir, because I don't remember.

Q. Did you talk about any other matters out there except certain facts relative to the case?

A. I don't remember what we talked about.

Q. But you do remember you talked?

A. Yes, we had probably a general conversation.

By Mr. Coley:

Q. I believe you said you have been out there as an officer for about twelve years?

A. Yes sir.

Q. During all the time you have been there this street has been laid off in substantially the same manner as now, the buildings have been there——

A. No sir, not the same street; it has been widened.

Q. In what way?

A. To give more space.

Q. Out to the highway?

A. Yes sir.

Q. Craft Highway at that point runs parallel to this sidewalk?

A. Yes sir, practically so.

Q. And there are only about thirty-five or forty feet be-
[fol. 30] tween Craft Highway and this sidewalk?

A. I don't know the exact distance.

Q. There is only a narrow strip between the sidewalk and Craft Highway, isn't it?

A. It is a good sized street now.

Q. You actually don't know where the right of way of Craft Highway runs, do you?

A. No, I don't.

Q. You don't know the width of Craft Highway at that point?

A. Not now because it has been made four-laned.

Q. Craft Highway is a four-laned highway?

A. Right now; it has just been finished.

Q. That is an eighty feet right of way there, isn't it?

A. I don't know.

Q. You do know that you can drive from Craft Highway right off on to that road at any point?

By the Court: He has been over that and testified very clearly to that once. Go ahead.

By Mr. Coley: Maybe I am dumb and didn't catch it but I didn't.

Q. Isn't it a fact that at any point within that block you can drive from Craft Highway right on to that street?

A. Yes sir.

Q. It is just simply a wide space in the highway, practically speaking?

A. You mean the street in front of the business property?
Q. Yes?
A. It is a pretty nice street.
Q. It is an extension of the highway?
A. No sir.
Q. What separates it from the highway?
A. The Gulf Shipbuilding Company's property.
Q. Is there a wall or fence of any kind between the Gulf Shipbuilding Company and the highway?
A. No sir, just a little slope of the bank.
Q. This sidewalk, this drug store has been at that place ever since you have been there?
A. Yes sir.
Q. On that same sidewalk?
A. Yes sir.
Q. Coleman's store was there when you first went there?
A. Yes sir.
Q. There was a laundry there?
A. No sir.
Q. There was a place there where the laundry is now?
A. Tennessee Land Company's office.
Q. There was a Barber Shop there?
A. Yes sir.
Q. There was a Post Office there?
A. Yes sir.
[fol. 31] Q. That is the Post Office of the United States Government?
A. Yes sir.

State objects as repetition.

Q. And that Post Office and all of those stores have been open to the general public all this time.
A. They have a new Post Office now.
Q. The Post Office is in the same block and on the same sidewalk?
A. Yes sir.
Q. And they built a new Post Office?
A. Yes sir.
Q. And that has been open to the general public and was all the time, and was at the time these arrests were made?
A. Yes sir.
Q. You knew nothing about it prior to twelve years ago?
A. I can't answer anything that happened before I went there.

Redirect examination.

By Mr. Inge:

Q. Mr. Powell has asked you if newspapers are sold there on the sidewalk by news boys?

A. Yes sir.

Q. Will you state, if you know, whether or not they obtained written permits from the office before they were permitted to do that selling?

A. Yes sir, they have written permits.

Q. He also asked you if these weren't the only people who have been arrested or made to leave the property for offering magazines for sale, and I think you said they were; have any other peddlers or solicitors been required to leave that property that you know of?

A. No sir, I can't say if we have. We have vegetable trucks come out there, and people in the village, and we require them to have a permit, everyone, to come out there and sell.

Recross-examination.

By Mr. Powell:

Q. Mr. Chatham, I hand you here a magazine entitled "Consolation"; is that the magazine you had reference to?

A. Yes sir; I can't say that was the one, but one with the same name.

Q. You don't know whether this is the same one or not but it was one of the same type?

A. They left on the bench in the police station.

[fol. 32] Q. This is like the one they left?

A. Yes sir.

By Mr. Inge: I am going to object to him using those papers. I have never before had a lawyer to walk up and take papers out of my file.

By Mr. Coley: That is the same magazine; the ones introduced in evidence in the Inferior Court were the ones they were selling.

By Mr. Inge: Mr. Coley, we didn't introduce any; you introduced some in the case of Mr. Joseph Marsh.

By the Court: Both of you present your objections to the Court.

By Mr. Coley:

Q. When these people were arrested they were distributing these booklets?

A. Offering them for sale or giving them away.

Q. They were distributing them?

A. Those books says five cents a copy.

Q. Were they like those?

A. Yes sir, The Consolation and The Watchtower.

Q. They told you they were Ordained Ministers and were distributing these in their work as Ministers?

A. I don't know whether they said they were Ordained Ministers or not; they just said they had a right by the Jehovah God.

Q. And they were distributing these as a part of their religious work?

A. Yes sir.

By Mr. Powell: We offer these in evidence.

By Mr. Inge: We object to these because it is not shown they are the volumes being distributed on that day at all.

By the Court: I will let them in.

Note: In view of the written request made of me by the Defendant's attorney, Mr. Powell, that he would prefer [fol. 33] printed copies of these magazines being attached to this transcript, rather than my attempting to copy them herein, and the further fact that there are several pictures contained in the magazines which cannot be copied on the typwriter, I am attaching hereto a true and correct printed copy of each of these two magazines offered in evidence, which are marked Defendant's Exhibits 1 and 2, respectively.

Chas. L. Rehm, Court Reporter.

Witness excused.

E. B. Peebles, a witness for State, after having been first duly sworn, testified as follows:

Direct examination.

By Mr. Inge:

Q. You are Mr. E. B. Peebles?

A. Yes sir.

Q. Mr. Peebles, what is your present employment?

A. Vice-President of the Gulf Shipbuilding Corporation.

Q. You are in charge of the Housing Division of that corporation?

A. Yes sir.

Q. That is simply for the convenience of the corporation, a division of that corporation in charge of its real property?

A. Yes sir, Housing Division name is merely applied to identify that particular division.

Q. That is not a corporate entity?

A. No sir.

Q. And it is a part of the corporation?

A. Yes sir.

Q. Besides Vice-President of the Gulf Shipbuilding Corporation did you have any connection with the Chickasaw Development Company?

A. Yes sir, Vice-President of that corporation.

Q. Was that a corporation?

A. Yes sir.

Q. How long have you been the Vice-President of the Gulf Shipbuilding Corporation?

A. When the Chickasaw Development Company was absorbed by the Gulf Shipbuilding Corporation I was immediately made a Vice-President of the Gulf Shipbuilding Corporation, and I think that was in forty-one.

[fol. 34] Q. Now, prior to the—are you familiar with the property referred to as the business block or property in the village of Chickasaw?

A. Yes sir.

Q. Will you state who owns that village block?

A. Gulf Shipbuilding Corporation.

Defendants object to that.

Q. Mr. Peebles, will you tell us who is in possession of that business block?

Defendants object to that as a conclusion, and the Court sustained the objection.

Q. Mr. Peebles, does the Gulf Shipbuilding Corporation own any property, to your knowledge, at Chickasaw?

A. Yes sir.

Q. Who is in charge of assessing and paying the taxes on the property of the Gulf Shipbuilding Corporation there?

Defendants object as incompetent, irrelevant and immaterial, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

A. Mr. Slaton is Vice-President and Treasurer and pays the taxes and assessments.

Q. Is that under your supervision?

A. That particular part of the property known as the Housing Division and business section is under my supervision.

Q. That is what I am talking about, the so-called business section?

A. Yes sir.

Q. Mr. Peebles, do you know who has the control of or possession of the so-called business section in the village of Chickasaw?

Defendants object as conclusion, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

A. The Gulf Shipbuilding Corporation.

Q. And through whom does the Gulf Shipbuilding Corporation, if you know of your own personal knowledge, act in control of that section known as the business block?

A. Through me.

Q. Have you had charge of that property?

A. Yes sir.

Q. During all the time you have been Vice-President of the Gulf Shipbuilding Corporation?

A. Yes sir.

[fol. 35] Q. Do you know of your own knowledge who owns that so-called business section?

Defendants object as incompetent, irrelevant and immaterial, and the Court sustained the objection.

Q. Mr. Peebles, I hand you what purports to be a warranty deed from the Chickasaw Development Company to the Gulf Shipbuilding Corporation and ask you to examine that and state whether or not that is the original deed that was delivered, accepted by you as Vice-President of the Gulf Shipbuilding Corporation conveying the property known as the so-called business block, together with other property?

A. Yes sir.

Mr. Inge: I offer this deed in evidence, if your Honor please.

It was marked State's Exhibit 1.

Said Exhibit 1 is in words and figures as follows:

STATE'S EXHIBIT No. 1

STATE OF ALABAMA,
County of Mobile:

Know All Men by These Presents that for and in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration paid to Chickasaw Development Company, Inc., a corporation organized and existing under the laws of the State of Alabama (hereinafter referred to as the Grantor) by Gulf Shipbuilding Corporation, a corporation organized and existing under the laws of the State of Alabama (hereinafter referred to as the Grantee), receipt of which is hereby acknowledged, said Grantor does hereby grant, bargain, sell and convey unto said Grantee subject to the exceptions, reservations and liens hereinafter referred to, all of that certain real and personal property lying and being situate in Township 3 South, Range 1 West Mobile County, Alabama, and located as shown by the map attached to that certain deed from Tennessee Land Company, a corporation, to said Chickasaw Development Company dated April 25, 1939 (said deed being recorded with said map attached in the records of the office of the Judge of Probate of Mobile County, Alabama in Deed Book 284 N. S. 24) and by a map attached to that certain deed of said Tennessee Land Company to said Chickasaw Development Company dated January 30, 1941 (said deed with said map attached being recorded in the records of the Judge of Probate of Mobile County, Alabama [fol. 36] in Deed Book 305 N. S. 44), and being more particularly described as follows:

(a) Begin at the southeast corner of said Section 21; thence in a westerly direction along the southern boundary of said section 404.9 feet to intersection with center line of right of way for John Craft Highway, said right of way having been conveyed by Chickasaw Land Company to Mobile County, Alabama, by deed

dated the 14th day of October, 1929; thence turning an angle of 102 degrees and 36 minutes to the left in a southeasterly direction along said center line 222.87 feet to point of beginning of boundary of tract of land herein described; thence continuing in a southeasterly direction along a projection of the last above described course 1139.08 feet; thence turning an angle of 96 degrees and 20 minutes to the right in a southwesterly direction along a straight line 402.22 feet to point of beginning of the arc of a curve turning to the left and having a radius of 451.73 feet, said straight line being tangent to said arc, said arc being subtended by a central angle of 31 degrees and 54 minutes; thence in a southwesterly direction along said arc 251.51 feet to point of beginning of a straight line tangent to said arc; thence in a southwesterly direction along said straight line 965.5 feet; hence turning an angle of 90 degrees and 00 minutes to the right in a northwesterly direction 1933.65 feet; thence turning an angle of 90 degrees and 00 minutes to the left in a southwesterly direction 581.02 feet; thence turning an angle of 38 degrees and 26 minutes to the right in a westerly direction 101.83 feet; thence turning an angle of 90 degrees and 11 minutes and 30 seconds to the right in a northerly direction 1830.44 feet; thence turning an angle of 89 degrees and 48 minutes and 30 seconds to the right in an easterly direction 281.46 feet; thence turning an angle of 38 degrees and 48 minutes to the right in a southeasterly direction 241.8 feet; thence turning an angle of 90 degrees and 00 minutes to the left in a [fol. 37] northeasterly direction 2074.4 feet; thence turning an angle of 90 degrees and 00 minutes to the right in a southeasterly direction 1017.95 feet; thence turning an angle of 38 degrees and 46 minutes to the left in an easterly direction 40.0 feet to intersection with the center line of said right of way for John Craft Highway; thence turning an angle of 90 degrees and 00 minutes to the right in a southerly direction along the center line of said Highway which is a straight line 334.72 feet to point of beginning of the arc of a curve turning to the left and having a radius of 3437.87 feet, said straight line being tangent to said arc, said arc being subtended by a central angle of 12 degrees and 54 minutes; thence in a southeasterly di-

rection along said arc which is the center line of said right of way 774.03 feet to point of beginning of a straight line tangent to said arc; thence in a southeasterly direction along said straight line which is the center line of said right of way 334.49 feet; thence turning an angle of 90 degrees and 00 minutes to the right in a southwesterly direction 460.0 feet; thence turning an angle of 90 degrees and 00 minutes to the left in a southeasterly direction 496.9 feet; thence turning an angle of 84 degrees and 06 minutes to the left in a northeasterly direction 462.45 feet to point of beginning; the tract of land herein described in this Paragraph (a) having an area of 184.84 acres, more or less;

(b) Begin at the southwest corner of said Section 22; thence in an easterly direction along the southern boundary of said section 98.73 feet to intersection with the arc of a curve turning to the left in a southeasterly direction and having a radius of 5679.65 feet, said intersection being point of beginning of boundary of tract of land herein described, said arc being sub- [fol. 38] tended by a chord 548.66 feet in length, said chord forming an angle of 75 degrees and 55 minutes and 05 seconds to the right from said southern boundary, said arc being also subtended by a central angle of 5 degrees and 32 minutes and 09 seconds; thence in a southeasterly direction along said arc which is the eastern boundary of right of way of the Southern Railway Company 548.79 feet to point of beginning of a straight line tangent to said arc; thence in a southeasterly direction along said straight line which is the eastern boundary of said right of way of Southern Railway Company 478.79 feet; thence turning an angle of 73 degrees and 10 minutes to the left in an easterly direction 733.78 feet; thence turning an angle of 107 degrees and 51 minutes to the left in a northwesterly direction 143.72 feet; thence turning an angle of 1 degree and 56 minutes to the right in a northwesterly direction 212.69 feet; thence turning an angle of 1 degree and 57 minutes to the right in a northwesterly direction 1489.85 feet; thence turning an angle of 2 degrees and 47 minutes to the right in a northwesterly direction 233.43 feet; thence turning an

angle of 3 degrees and 24 minutes to the right in a northwesterly direction 231.5 feet; thence turning an angle of 3 degrees and 00 minutes to the right in a northwesterly direction 228.42 feet; thence turning an angle of 3 degrees and 30 minutes to the right in a northerly direction 210.3 feet; thence turning an angle of 1 degree and 41 minutes to the right in a northerly direction 305.33 feet; thence turning an angle of 9 degrees and 44 minutes to the right in a northeasterly direction 547.4 feet; thence turning an angle of 95 degrees and 04 minutes to the left in a northwesterly direction 544.7 feet to intersection with said eastern boundary of right of way of the Southern Railway Company; thence turning an angle of 90 [fol. 39] degrees and 00 minutes to the left in a southwesterly direction along said eastern boundary of right of way which is a straight line 974.6 feet to point of beginning of the arc of a curve turning to the left and having a radius of 5679.65 feet, said straight line being tangent to said arc, said arc being subtended by a chord 1616.64 feet in length; thence in a southwesterly, southerly and southeasterly direction along said arc which is the eastern boundary of said right of way of Southern Railway Company 1622.14 feet to point of beg. ning, said chord above described as having a length of 1616.64 feet forming an angle of 86 degrees and 52 minutes and 05 seconds with the southern boundary of said Section 22; the tract of land herein described in this Paragraph (b) having an area of 52.00 acres more or less;

(c) Begin at the northeast corner of said Section 28; thence in a westerly direction along the north boundary of said section 404.9 feet to intersection with the center line of right of way of John Craft Highway, said right of way having been conveyed by Chickasaw Land Company to Mobile County, Alabama, by deed dated the 14th day of October, 1929, said intersection being point of beginning of boundary of tract of land herein described; thence turning an angle of 102 degrees and 36 minutes to the left in a southeasterly direction along said center line of right of way and a projection thereof 951.9 feet; thence turning an angle of 90 degrees and 00 minutes to the left

in a northeasterly direction 355.9 feet to intersection with the western boundary of land conveyed by Chickasaw Land Company to Alabama, Tennessee and Northern Railroad Corporation by deed dated the 31st day of January, 1928, said intersection being in the arc of a curve turning to the left in a northwesterly [fol. 40] direction and having a radius of 1407.69 feet, said arc being subtended by a central angle of 8 degrees and 20 minutes and having a chord 204.56 feet in length, said chord forming an angle of 89 degrees and 39 minutes to the left from last described course; thence in a northwesterly direction along said arc which is the western boundary of said land of Alabama, Tennessee and Northern Railroad Corporation 204.74 feet to point of beginning of a straight line tangent to said arc; thence in a northwesterly direction along said straight line which is the western boundary of said land 78.72 feet to point of beginning of the arc of a curve turning to the right and having a radius of 5829.65 feet, said straight line being tangent to said arc, said arc being subtended by a central angle of 5 degrees and 49 minutes and 30 seconds and having a chord 592.40 feet in length; thence in a northwesterly direction along said arc which is the western boundary of said land 592.67 feet to intersection with the north boundary of said Section 28, said north boundary forming an angle of 76 degrees and 29 minutes and 45 seconds with said chord, said intersection being 54.14 feet west of the northeast corner of said Section 28; thence continuing in a northwesterly direction along another arc of said curve having a radius of 5829.65 feet which arc is the western boundary of said land 571.05 feet, said arc being subtended by a central angle of 5 degrees and 36 minutes and 45 seconds and having a chord 570.84 feet in length; thence turning an angle of 94 degrees and 47 minutes and 45 seconds to the left from said chord in a southwesterly direction along a straight line which is the boundary of said land of Alabama, Tennessee and Northern Railroad Corporation 50.45 feet to intersection with the arc of a curve turning to the right in a northerly direction [fol. 41] and having a radius of 5879.65 feet, said arc being subtended by a central angle of 10 degrees and 09 minutes and 30 seconds and having a chord 1040.80

feet in length, said chord forming an angle of 102 degrees and 36 minutes and 52 seconds to the right from said straight line; thence in a northerly direction along said arc which is the western boundary of said land of Alabama, Tennessee and Northern Railroad Corporation 1042.44 feet; thence turning an angle of 89 degrees and 29 minutes to the left from said chord in a westerly direction 450.0 feet to intersection with said center line of right of way of John Craft Highway; thence turning an angle of 90 degrees and 15 minutes to the left in a southerly direction along said center line which is a straight line 190.62 feet to point of beginning of the arc of a curve turning to the left and having a radius of 3437.87 feet, said straight line being tangent to said arc, said arc being subtended by a central angle of 12 degrees and 54 minutes; thence in a southeasterly direction along said arc which is the center line of said right of way 774.03 feet to point of beginning of a straight line tangent to said arc; thence in a southeasterly direction along said straight line which is the center line of said right of way of John Craft Highway 506.05 feet; thence turning an angle of 90 degrees and 00 minutes to the left in a northeasterly direction 140.0 feet; thence turning an angle of 90 degrees and 00 minutes to the right in a southeasterly direction 150.0 feet; thence turning an angle of 90 degrees and 00 minutes to the right in a southwesterly direction 140.0 feet to point of beginning;

(d) Begin at a point where the center line of Craft Highway crosses the south line of Section 21, Township 3 South, of Range 1 West; thence run northwardly along the center line of Craft Highway for a [fol. 42] distance of 762.6 feet to a point; thence west forty feet to a point on the west line of Craft Highway, being the point of beginning of the boundary of the tract of land herein described; thence running westwardly along a straight line which is parallel to the north line of the lot known as the Public School Lot in Chickasaw, upon which a grammar grade public school is now located, for a distance of 250 feet to a point; thence running northwardly and parallel with the west line of Craft Highway for a distance of 100

feet to a point, thence eastwardly and parallel with the south line of the lot here described, for a distance of 250 feet to a point on the west line of Craft Highway, thence southwardly along the west line of Craft Highway 100 feet to the point of beginning of the boundary of the tract of land herein described;

(e) All easements, rights and franchises which Grantor may own for crossing Telegraph road or other roads or railroads or street railroads with sewer lines, the Grantee herein assuming all obligations of the Grantor in connection with such easements, rights, franchises and sewer lines;

(f) All physical improvements on the land herein conveyed, including streets and sanitary sewers and *and* sanitary sewerage disposal plant and equipment located in sewerage disposal plant, including 2 30-H. P. General Electric Motors Nos. 1409439 and 1410318, 1 Square "D" switch No. 56354, 2 D'Oliver centrifugal sewage pumps, 1 concrete septic tank and 1 concrete sludge bed; but as to the property and areas included in streets, alleys and public roads, this conveyance shall constitute a quit-claim deed only;

(g) The sanitary sewer line in its present location extending between the Main Village and the East Vil-
[fol. 43] lage and right of way therefor ten feet in width, being five feet on each side of the center line of the sewer line in its present location, over lands owned by the Grantor and not herein conveyed, but as to said sewer line and right of way this conveyance shall constitute a quit-claim deed only.

To Have and to Hold all of said property together with all and singular the rights, tenements, privileges hereditaments and appurtenances thereunto belonging or in any wise thereunto appertaining unto said Grantee and its successors and assigns forever in fee simple. Provided however, that there is excepted from this conveyance (1) the property heretofore conveyed by the Grantor herein to the Trustees of the Chickasaw Pleasant Valley Charge of the Methodist Episcopal Church, South by warranty deed dated March 22nd, 1941 (recorded in the office of the Judge of Probate

of Mobile County, Alabama, in Deed Book 306 N. S. 678); (2) all pipe lines, meters, fire hydrants and other equipment, and all of the rights and easements owned by the Alabama Water Service Company; (3) all transmission lines, meters, transformers and other equipment and all rights and easements owned by the Alabama Power Company; (4) all equipment, rights and easements owned by the Southern Bell Telephone and Telegraph Company; (5) the building and other improvements located on the property leased by Chickasaw Land Company to Mrs. Alice P. Scheuermann and John V. Scheuermann by an instrument dated June 16th, 1935 and covering a tract of land in the Northeast quarter of the Northeast quarter of Section 28, Township 3 South, Range 1 West, Mobile County, Alabama; and (6) all easements, right of ways, rights and privileges excepted from said conveyances by said Tennessee Land Company to the Grantor herein, such easements, right of ways, rights and privileges being excepted from this conveyance only to the extent that they are excepted from said conveyance to the Grantor herein by the terms and provisions of said deeds of April 25, 1939 and January 30, 1941 and all rights and interests of said Chickasaw Development Company therein are transferred and conveyed to the Grantee herein. And provided further that all of the property by this deed conveyed to the Grantee herein is conveyed, subject to (a) the existing right of ways of Mobile County [fol. 44] and the State of Alabama for public roads, (b) existing rights and easements for the maintenance and use of existing telephone lines, electric power transmission lines, sewer lines and water pipe lines, (c) all right of ways, easements, right of ingress and egress and all other rights and privileges reserved unto said Tennessee Land Company in and by the terms and provisions of said deeds to the Grantor herein dated April 25, 1939 and January 30, 1941 respectively, (d) State and County taxes for the current tax year which taxes shall be pro rated as of the date hereof; and (e) so much of said property as is described in and covered by the lien of that certain mortgage executed and delivered by the Grantor herein to the Merchants National Bank of Mobile under date of April 28, 1939 is conveyed subject to the lien of said mortgage and by the acceptance of this deed

the Grantee herein assumes and agrees to pay the indebtedness secured by said mortgage.

And Grantor does for itself, its successors and assigns covenant with the Grantee its successors and assigns that Grantor is lawfully seized in fee simple of said property; that said property is free of all liens and encumbrances except those hereinabove referred to; that it has a good right to sell and convey the same as aforesaid, and that it will, and its successors and assigns shall forever warrant and defend the same unto said Grantee, its successors and assigns forever against the lawful claims of all persons; provided however that the warranties herein contained do not apply to areas or property located in any of the streets, alleys or public roads nor to the sewer line extending between the Main Village and the East Village of Chickasaw, nor to the right of way therefor, nor to shrubbery, and as to said streets, alleys, public roads, property therein and the sewer line between said villages with the right of way therefor and shrubbery this instrument shall constitute a quit-claim deed only.

The Grantor herein transfers and assigns to the Grantee all leases now existing on houses, land or other property within the boundaries of the land herein conveyed except the turpentine lease to D. C. Baldwin.

In Witness Whereof, Chickasaw Development Company, a corporation, has caused these presents to be executed in its name and on its behalf by E. B. Peebles, its Vice-Presi-
[fol. 45]dent, and its corporate seal to be hereunto affixed, and attested by H. C. Slaton, its Secretary, both being thereunto duly authorized, and Gulf Shipbuilding Corporation, a corporation, has caused these presents to be executed in its name and on its behalf by H. Hill, its Vice-President, and its corporate seal to be hereunto affixed, and attested by H. C. Slaton, its Secretary, both being thereunto duly authorized, all on the 30th day of June, 1941.

Chickasaw Development Company, Inc., by E. B. Peebles, as its Vice-President.

(Corporate Seal of Chickasaw Development Company, Inc., Chickasaw, Alabama.)

Attest: H. C. Slaton, Secretary.

Gulf Shipbuilding Corporation, by H. Hill, as its Vice-President.

(Corporate Seal of Gulf Shipbuilding Corporation, Mobile, Alabama.)

Attest: H. C. Slaton, Secretary.

STATE OF ALABAMA,
County of Mobile:

I, J. A. Townsend, a Notary Public in and for said county and state, hereby certify that E. B. Peebles and H. C. Slaton, whose names as Vice-President and Secretary respectively, of the Chickasaw Development Company, Inc., a corporation, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of the said Corporation on the 30th day of June, 1941. Given under my hand and notarial seal this 8th day of July A. D., 1941.

J. A. Townsend, Notary Public, Mobile County, Alabama (Notarial Seal of J. A. Townsend).

STATE OF ALABAMA,
County of Mobile:

I, J. A. Townsend, a Notary Public in and for said county and State, hereby certify that H. Hill and H. C. Slaton, whose names as Vice-President and Secretary, respectively, [fol. 46] of the Gulf Shipbuilding Corporation, a corporation, are signed to the foregoing conveyance, and who are known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, they, as such officers and with full authority, executed the same voluntarily for and as the act of the said Corporation on the 30th day of June, 1941. Given under my hand and notarial seal this 8th day of July, A. D., 1941.

J. A. Townsend, Notary Public, Mobile County, Alabama (Notarial Seal of J. A. Townsend).

(There is attached at this point $480.15 in U. S. Revenue Stamps, each stamp having written across its face "C. D. Co. 6/30/41.")

On the back of the cover of said instrument is the following:

13126

Warranty Deed

CHICKASAW DEVELOPMENT CO., INC., a Corporation,

to

GULF SHIPBUILDING CORPORATION, a Corporation

June 30, 1941.

STATE OF ALABAMA,
Mobile County:

Probate Court Jul- 14, 1941.

Filed in office this day and duly recorded in Deed Book No. 310 N. S. Pages 634. I hereby certify that 436 Dollars 50 Cents, deed privilege or license tax paid on the within instrument.

Norvelle R. Leigh, Jr., Judge of Probate, by J. D. Gerald, Jr., Chief Clk.

Armbrecht, Inge, Twitty & Jackson, Lawyers, Suite 403, Merchants National Bank Bldg., Mobile, Ala.

Witness: Let me correct myself on this——
By the Court: Sir?

[fol. 47] Defendants object to the statement regarding the business block on the ground that the instrument speaks for itself, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

By Mr. Inge:

Q. Now, Mr. Peebles, I wish you would please describe to the Court what the so-called business block in Chickasaw that you have identified as being a part of the property conveyed in this deed consisted of on December 24th, 1943, particularly with reference to the location with reference to the highway?

A. The business block, as we call it, is located parallel to Craft Highway, running from Mobile north. The busi-

ness section referred to is separated from the Highway itself by a strip of land, which is owned by the Gulf Shipbuilding Corporation, about thirty feet in width. The property consists of one large building divided into several stores or business establishments. Those business establishments are a barber shop, drug store, a beauty parlor, a laundry branch, Post Office, grocery store, in the rear a Doctor's office, and a commercial office.

Q. Those buildings are all owned and constructed by the Gulf Shipbuilding Corporation?

A. Yes sir.

Q. Is there a sidewalk running north and south on the western side or front of the store building that you have described?

A. Yes sir.

Q. About how long is that sidewalk?

A. It is the length of the building, probably two hundred feet.

Q. It is the length of the building in which these stores are located?

A. Yes.

Q. Does the sidewalk run anywhere else, north or south?

A. You go a few feet beyond the stores to get to an intersection and that is where it stops.

Q. Have those stores been rebuilt or changed in any manner by the Corporation since it has owned it?

A. Yes sir, some rebuilt and stores added and some completely rebuilt.

Q. Has the sidewalk been changed in any manner?

A. Only repaired; no change in the sidewalk.

Q. Please tell the Court where the western line of the so-called business section or block runs with reference to the Craft Highway?

[fol. 48] A. About thirty feet, the block itself, is from the Craft Highway.

Q. In other words, there is about thirty feet of property between Craft Highway and the property we have been talking about?

A. Yes sir, maybe thirty or forty feet.

Q. Is that separated from the Craft Highway there?

A. Yes sir, by some form of concrete obstruction there.

Q. Is it possible to run right off of the highway to any point there on the sidewalk?

A. Without going around all together in front of the business block in the area and come back to it.

Q. There are intersecting roads at each end of the business block leading into Craft Highway?

A. Yes sir.

Q. This sidewalk, is that built on property that belongs to the Gulf Shipbuilding Corporation?

A. Yes sir.

Q. Do you know whether or not of your own personal knowledge that included in the property assessed and on which taxes are paid each year by the Gulf Shipbuilding Corporation is the land on which that sidewalk is built?

A. I do.

Q. You pay taxes on the sidewalk property?

A. Yes sir.

Q. And regularly assess it?

A. Yes sir.

Q. Has the Gulf Shipbuilding Corporation ever at any time filed any papers in any Court expressly dedicating that sidewalk to the public use?

A. No sir.

Q. Have you ever filed any plat or map of any sort in any court dedicating or showing those streets as dedicated to the public?

A. No sir.

Q. During all the time you have been connected with the Gulf Shipbuilding Corporation and in charge of the Housing Division, I wish you would state to the Court what control, if any, it has exercised over those streets and sidewalks, particularly with reference to this block?

Defendant objects as incompetent, irrelevant and immaterial, and the Court overruled the objection.

Q. Have you maintained police officers or peace officers in the village?

A. Yes sir.

Defendants object as incompetent, irrelevant and immaterial, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

Q. Have they had any instructions with reference to [fol. 49] policing and supervising the use of the sidewalk and the street in front of the so-called business block?

A. Yes sir.

Defendants object as incompetent, irrelevant and immaterial, and a conclusion, and the Court sustained the objection.

Q. Mr. Peebles, I wish you would please examine this paper that purports to be a written notice from the Gulf Shipbuilding Corporation and state under whose direction that notice was prepared?

A. Mine.

Q. Under yours?

A. Yes sir.

Q. Will you please state whether or not those notices, or exact copies of this notice, were posted or placed or put up in any manner on the windows of the stores of the business block in Chickasaw?

A. Yes sir.

Q. Do you know when they were put up?

A. I don't know the exact date, but I think about sixty days ago.

Q. That would have been nearly thirty days then before the 24th day of December, 1943?

A. I would say about thirty days before that.

Q. During the month of December, 1943, and prior to that time, did the Corporation require peddlers, venders, street sellers, agents and all solicitors of every kind to obtain written permission from the office before being permitted to operate on your property?

Defendants object as incompetent, irrelevant and immaterial, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court,

Ans. Yes sir.

By the Court:

Q. That is of your personal knowledge?

A. Yes sir.

By Mr. Inge:

Q. In accordance with instructions given by you?

A. Yes sir.

Defendants object to that, and the Court overruled the objection, and Defendants reserved an exception to the ruling of the Court.

Q. As a matter of fact, were any permits issued to the various peddlers or solicitors?

Defendants object as incompetent, irrelevant and immaterial, and the Court sustained the objection.

[fol. 50] Q. Did you talk to any of these defendants, Mr. Peebles, prior to December 24th, 1943, personally?

A. I talked to two of the ladies, yes sir.

Q. Two of the ladies that are involved here today?

A. Yes sir, that is correct.

Q. Do you recall their names?

A. I can identify them but the names I don't recall.

Q. They are two of the ladies being tried here today?

A. Yes sir.

Q. Do you remember about how long that was before December 24th?

A. To make a positive statement I can not; I would say about a week.

Q. Did you at that time advise them that they would be required to have a permit before selling or distributing these magazines on your property?

A. We had a very, not too lengthy, but I would say a lengthy conversation in my office there and discussed the issues, and I told them they would have to have a permit, and I told them we were not willing to give them a permit under the conditions they wanted it.

Q. Did you tell them not to come on the property again?

A. Yes sir.

Q. And it was subsequent to that time that they were arrested on the property of the Gulf Shipbuilding Corporation?

A. Yes sir.

By the Court: Is there any objection to him pointing them out.

By Mr. Inge: I would like for them to point them out.

By Mr. Coley: Mrs. Marsh and Mrs. Stephens.

Witness: Yes sir.

By Mr. Inge: I would like to offer in evidence the notice identified by Mr. Peebles. It was marked State's Exhibit 2. Said Exhibit 2 is in words and figures as follows:

STATE'S EXHIBIT NO. 2

GULF SHIPBUILDING CORPORATION

Housing Division

Post Office Box 1125

Mobile, Alabama

Office
Chickasaw, Alabama

[fol. 51] NOTICE

This Is Private Property, and Without Written Permission, No Street, or House Vendor, Agent or Solicitation of Any Kind Will Be Permitted.

Gulf Shipbuilding Corporation, Housing Division.

Cross-examination.

By Mr. Powell:

Q. Mr. Peebles, I believe you said you were at present Vice-President of the Gulf Shipbuilding Corporation?

A. Yes sir.

Q. Prior to 1941 you were connected with the Chickasaw Development Company?

A. Yes sir.

Q. And they had a location out there on this same property, did they not?

A. Yes sir.

Q. How long were you with the Chickasaw Development Company?

A. About a year before the ownership was changed.

Q. Were you familiar with that property before that?

A. Before what time.

Q. Before the year?

A. Before I went to work with them?

Q. Yes.

A. In a general way, yes sir.

Q. How long?

A. I have lived in Mobile twenty-three years and I have known Chickasaw——

Q. All during that time?

A. Yes sir.

Q. The block you have just described as a business block did it exist twenty-three years ago when you knew about that property out there?

A. I would say a portion of it did exist.

Q. Most of it did exist?

A. A portion of it, yes sir.

Q. Was there a sidewalk in front of the property at that time?

A. I am inclined to say yes; I had no reason to examine those kind of things very closely though.

Q. It is the same space that the present sidewalk covers?

A. I didn't examine that very close; it may have been wider or narrower, but I am of the opinion there was a sidewalk there.

Q. Was that business block occupied when you first knew about it by a drug store and other stores?

State objects to this line of questioning.

[fol. 52] By the Court: I don't see where anything has anything to do with it prior to the time the Gulf Shipbuilding Company took it over. Go ahead. I overrule the objection.

A. I would have to qualify my answer by saying that it was the time when we took it over that I knew intimately just what was there.

By Mr. Powell:

Q. You testified you knew it twenty-three years ago?

A. Just in a general way; I said I knew something about it.

Q. Didn't you testify in the Inferior Court that that drug store was there at the time you first knew about it?

A. When we took it over I knew what was in the business block; the business block itself was there.

Q. The business block was there twenty-three years ago?

A. A portion of it.

Q. And it was occupied?

A. I don't know.

Q. Didn't you testify that the drug store was operated there for all these years?

A. No sir.

Q. Did you testify that any of the property had been occupied for twenty-three years?

A. Right here?

Q. In the Inferior Court?

A. I told you I thought probably it had, because I wasn't in a position to make that statement.

Q. Do you still think so?

A. Yes sir.

Q. How long has the Post Office been there at Chickasaw?

A. You will have to ask the Post Office Department; I don't know.

Q. Was there one there twenty-three years ago?

A. I am assuming there was, I don't know.

Q. Did you know about it subsequent to back in 1918 during World War One?

A. I wasn't here; I was in the Army at that time.

Q. It was subsequent to World War One that you knew about it?

A. Yes sir, when I came here twenty-three years ago I just knew of it in a general way, and what was there I don't know.

Q. But you knew of some business places there?

A. Yes sir, a business block was there; whether they were doing business I don't know and it wasn't my business to find out.

Q. Were the doors open, Mr. Peebles?

A. I don't know.

Q. Were there people living in the village?

A. Yes sir.

Q. Were the people using the sidewalk at that time?

A. I don't know.

[fol. 53] Q. Did you see any one on the sidewalk?

A. I don't know.

Q. Did you use it yourself?

A. No sir.

Q. At the present time there is no restriction to the general public coming in there and doing business with any of those places that are open there; are they restricted in anyway?

A. Not in the stores.

Q. That is right, in the stores or in the United States Post Office?

A. That depends on the man inside the store; he has a lease from us and he may have restrictions; as long as they behave themselves we don't have anything to do with what happens in the store.

Q. They have to use the pavement for ingress and egress into these different shops?

A. If they want to some may go through the back, but most of them go through the front.

Q. Most of them use the pavement and go in through the front?

A. Without a doubt, yes.

Q. And they have ever since you have known about the property?

A. Since we took it over, yes.

Q. You mean the Chickasaw Development Company?

A. Yes sir.

Q. How long ago was that?

A. The Chickasaw Development Company took it over, I think, November 1st, I think, three years ago, a little better than three years ago.

Q. There is a road, paved road or a street right in front of this business block?

A. That is right between the business block and highway.

Q. It is adjacent to the sidewalk that the people walk on in front of the stores?

A. Yes sir.

Q. And it is between the highway and the sidewalk, running parallel there?

A. Yes sir.

Q. And it occupies the space between the pavement and the highway?

A. No sir.

Q. The concrete goes all the way to the concrete of the highway?

A. No sir. All the way to the concrete of the highway? The highway——

Q. Is there a dirt strip between this paved street and the highway?

A. That is right.

Q. The people can turn in at any point along there?

A. No sir.

Q. Can they turn in at each end of it?

A. Yes sir.

Q. Cannot turn in in the middle except go over a little rough place?

[fol. 54] A. If they wanted to go over a place about as high as that wall, and it slopes down; it runs from about four and a half or five feet on down.

Q. Is there a perpendicular wall there?

A. No sir.

Q. It is not very steep?

A. You may try it sometime in an automobile. It is about as high as that wall; I don't know whether you call that steep or not.

Q. You are talking about the strip?

A. I am talking about, between the actual Craft Highway and our ground is a neutral ground which is not paved.

Q. Isn't it a fact that that is almost level ground there, you don't come up to a steep incline to come into this?

A. No sir; it has been graded down.

Q. How wide is the sidewalk in front of the business block?

A. About eight feet I think.

Q. During the month of December and up to the present date shops along this business block are all leased to different parties?

A. Yes sir.

Q. And they are now operating them?

A. Yes sir.

Q. Including the United States Post Office?

A. Yes sir.

Q. I believe you said you wrote this notice about sixty days ago?

A. I didn't write it; I directed it to be written.

Q. Did you dictate it?

A. I told them what to write.

Q. Why did you decide at that time to put up this notice?

State objects as incompetent, irrelevant and immaterial, and the Court sustained the objection.

Q. You never issued any such notice until Jehovah Witnesses began offering their magazines there?

A. Oh! yes; we have for over a year; we have been issuing permits for over a year.

Q. I am talking about the notice?

A. On the windows.

Q. Yes?

A. No sir.

Q. You didn't put up that notice until after the Jehovah Witnesses began offering magazines out there?

A. Oh! yes we did.

Q. They have been offering them out there for over sixty days?

A. No sir, not to my knowledge.

Q. As soon as they started to offer them out there you put up the notice?

A. No sir, we put them up before then; I just told you.

Q. Did you instruct the officers to arrest them?

[fol. 55] A. We have the instructions, to any one who violates the law.

Q. Did you direct the arrest?

A. Yes sir, I am responsible for it.

Q. Did you direct the arrest on December 11th when they brought them down to your office?

State objects to that, and the Court sustained the objection, and Defendants reserved an exception to the ruling of the Court.

Q. How long were they held in the office on December 11th?

A. I don't know.

Q. A couple of hours?

A. I don't know.

Q. Did you talk to them on that occasion?

A. No sir.

Q. You were not there at that time?

A. I don't know, but I didn't talk to them.

Q. Did you direct their arrest on December 18th?

A. I didn't direct it at any particular time; I was told to arrest them if they came out there.

Q. They were brought into your office on that occasion?

A. No sir; there hasn't been anybody in my office except the two ladies I testified.

Q. They were brought in the office by the officers?

A. No sir; they came in of their own accord.

Q. You were not there on December 18th when the officers held them there and did not take them to jail?

State objects to that.

Q. Did you order them held without bail, Mr. Peebles?

A. I don't think I would have that right, would I?

Q. Did you talk to anybody about it?

A. No sir, I never presumed to do that.

Q. You knew they were held without bail?

A. No sir; we arrested them and sent them down here and they were in the hands of the Court.

Q. You didn't sign any of the affidavits or warrants to any of the cases?

A. No sir.

By Mr. Coley:

Q. Your acquaintance with the property——

By the Court: I cannot sit by and have four lawyers examine one witness.

By Mr. Powell: You mean three.

[fol. 56] By the Court: Go ahead.

By Mr. Coley:

Q. Your acquaintance with this property up until the time you began working with the Chickasaw Development Company was casual?

A. Yes sir.

Q. You passed up and down the highway occasionally?

A. Yes sir.

Q. Did you ever play golf out on the golf course?

A. A long time ago when I was a little younger.

Q. You have seen people coming and going?

A. Yes sir, only in a casual way.

Q. You knew nothing about that place or any restrictions out there and never heard of any?

A. I didn't actually know them, no.

Q. To your knowledge, how long has a post office been open on that block?

A. Since we took over in 1940; that is to my actual knowledge.

Q. Can you tell the Court the territory that that post office serves, do you know how far it extends?

A. No, sir; I know it serves the immediate section in Chickasaw, but beyond that I don't know how far it serves.

Q. Chickasaw embraces not only the Gulf Shipbuilding Company property but all that surrounding property?

A. We don't identify it that way. We say a lot of things about Chickasaw but we identify Chickasaw only by the property we own.

Q. I am speaking about the Post Office?

A. I can't answer as to the Post Office.

Q. As a matter of fact, Chickasaw proper of what you speak is a limited portion consisting of that business block and a housing area, some of which is to the east of the highway and some of which is to the west, of the highway, and extending out and including a part of the lots which has been acquired in Mobile Heights?

A. I can't answer that; I would have to stay with my own property.

Q. You know, as a matter of fact, that all of that property around there is thickly populated?

A. Yes sir.

Q. Extending almost to Whistler in that direction?

A. It is thickly populated adjacent to Chickasaw.

Q. And goes all the way back down to Prichard?

A. How far it goes you will have to answer.

[fol. 57] Q. That housing project is erected on a part of the property that was formerly of the Chickasaw Development Company or Gulf Shipbuilding Company?

A. No sir.

Q. Didn't they condemn a part of the Gulf Shipbuilding Company's property?

A. No sir.

State objects to that as incompetent, irrelevant and immaterial, and the Court sustained the objection, and Defendants reserved an exception to the ruling of the Court.

Q. Now, Mr. Peebles, I believe you said that these notices were put up under your instructions?

A. Yes sir.

Q. You had the officers of the Gulf Shipbuilding Company place them in the windows where they were placed?

A. That is right.

Q. And this property, all of these stores are leased to private individuals or companies?

A. Yes sir.

Q. And these businesses have been conducted there for some period of time and were at the time the property was acquired by the Gulf, except new businesses there since?

A. There were some vacancies there when we took over.

Q. The leases under which this property was rented have no restrictions as to the use of the sidewalk?

A. No sir, the sidewalk is not mentioned.

Q. There are no other buildings, residences or otherwise, facing on that sidewalk except these particular buildings which are under lease as you have testified, are they?

A. That is right.

Q. This driveway you testified passes only in front of these buildings?

A. Goes all the way around the buildings.

Q. There is a block in there?

A. Yes sir.

Q. There is a highway on the end of the block to the south,—I guess you would call it east,—back towards Mobile?

A. No sir.

Q. There is a road that runs by the end of the business block that goes towards the river?

A. That is about five or six hundred yards down there. That is a private road owned and constructed by the Gulf Shipbuilding Corporation.

Q. There is a road that goes by the north end?

A. A private road constructed by us.

Q. It has been there ever since the drugstore has been there?

A. No sir, that road was taken up after the last war and [fol. 58] was never used until the Gulf Shipbuilding Corporation bought it.

Q. Isn't it a fact that the Southern Railroad Company had a depot located in back of that business block?

A. No sir.

Q. Isn't there an old building back in there now that was used for a depot?

A. No sir.

Q. The railroad passes along there?

A. Yes sir, the Southern and A. T. & N.

Q. Didn't they have a depot there?

A. Down below us about five or six hundred yards.

Q. Isn't it a fact that that road entered from Craft Highway by the Drug Store and you could drive right in, and that was the road customarily followed, you could drive in there and follow that road back by the depot?

A. No sir.

Q. You have been to that depot?

A. Many a time.

Q. And you never followed that road?

A. No sir.

Q. You could follow it?

A. Oh! yes, you could jump a fence and go there.

Q. I am talking about in an automobile?

A. Yes sir, you could, but it would be way out of your way to do it.

Q. There was no obstruction or anything to keep you from doing it was there?

A. No sir.

Q. And you say these ladies came to your office of their own accord?

A. Yes sir.

Q. And when they came in they told you they wanted to go ahead with that work?

A. I don't know; I know what the substance of the conversation was but not everything said.

Q. Just what was the substance of the conversation?

A. They had been warned by our policemen not to come back there and were threatened with arrest and they came back to see me or sent me word, and they came in and we sat there and talked.

Q. In that conversation didn't they tell you that they were Jehovah Witnesses?

A. Oh! yes.

Q. And that they were Ordained Ministers?

A. Yes sir.

Q. And that they were distributing these booklets in the furtherance of their religious belief and as they believed in accordance with the directions of Jehovah?

A. I can't answer that, what all they told me; I didn't have much chance to talk; they told me what they were going to do.

Q. They did tell you they felt that it was a matter of their [fol. 59] religion, they were required to distribute these booklets?

A. I don't know whether they told me that or not, but they told me they were going to do it and regardless, and I told them they weren't, and that is how it started.

Q. They told you they were going to do it as a matter of their religious duty, didn't they?

State objects to that, and the Court sustained the objection.

Q. Did they do it or not?

State objects to that as incompetent, irrelevant and immaterial, and the Court overruled the objection.

Q. Did they tell you that they were distributing these booklets and pamphlets in pursuance of their religious duties and as Ministers of Jehovah Witnesses?

State objects on the same grounds, and the Court sustained the objection, and Defendants reserved an exception to the ruling of the Court.

By Mr. Coley: We expect to show that these people stated to Mr. Peebles at that time that they were——

By the Court: I don't think you have any right to read into the record there. You ask questions.

By Mr. Coley: I take my exception but I want to also take exception to the Court's refusing to permit me to state what I expect to show when the Court has ruled and has stated that the matter which I expect to offer as evidence is not material, and I want to make that on the further ground that I have raised this same matter in the pleas which have been stricken and the Court stated I could introduce any matter, as well as the prevailing and customary practice, under the general issue that was raised in these pleas.

By Mr. Inge: That was a legal defense.

By Mr. Coley: I cannot try a case without I can try it.

By the Court: I have already ruled I wasn't going to let [fol. 60] you state what you expected to prove.

By Mr. Coley: I want to get my exception in the record and I can't unless I get in my statement of what I expect to show.

By The Court: I won't let you do it.

By Mr. Coley: I except to the remarks of the Court.

By the Court: Just abide by my rulings and we will get along better.

By Mr. Coley:

Q. Did they tell you they were selling anything on that block?

A. I don't remember that they did, Mr. Coley, one way or the other.

Q. Do you know whether they sold anything on that block?

A. I have never seen them on the block.

Q. Now, that is the only written notice you have ever had posted out there?

A. Yes sir.

Q. You know nothing about what was done in that village up until the time the property was acquired by the Chickasaw Development Company?

A. No sir.

Q. And these are the only people that have ever been arrested out there?

A. Oh! no.

Q. Who were they?

A. I can't go back——

Q. I am talking about for this offense?

A. Yes sir, for this particular offense.

Witness excused.

State rests.

By Mr. Coley: I want to move that the evidence be excluded on the ground that no prima facie case has been made out, and on the ground that the evidence discloses that the defendants have in fact not committed any violation of the law, the undisputed evidence. The Court overruled the motion.

[fol. 61] By Mr. Powell: With your permission, if the Court please, I will read this motion and put in the names later and later put it in and file it. (Reads motion to the Court.)

By the Court: You are filing that motion.

By Mr. Powell: Yes sir.

By the Court: And that is in each case?

By Mr. Powell: We would like to file this motion reserving all rights of the defendants to put on their defense.

By Mr. Inge: I don't think they can do both.

By Mr. Powell: We withdraw from the motion paragraph fourth.

By Mr. Coley: I don't think there is anything in the motion not covered by my oral motion, but to save any question this will not be offered.

MRS. GRACE MARSH, one of the defendants, after having been first duly sworn, testified as follows:

Direct examination.

By Mr. Powell:

Q. This is Mrs. Grace Marsh?
A. Yes sir.
Q. Are you one of the defendants in this case?
A. Yes.
Q. What is your occupation, Mrs. Marsh?
A. Well, my occupation is that of an Ordained Minister, I am one of the Jehovah Witnesses, and represent the Watchtower Bible and Tract Society.

By the Court: Just answer the question.

By Mr. Powell:

Q. How long have you been in this work?
A. I made my conversion to the Jehovah Witnesses in thirty-four and since that time I have devoted my full life to that work.
[fol. 62] Q. That has been a ministerial work?
A. Yes sir, in preaching the gospel of the Kingdom.
Q. What were you doing at the time of your arrest on December 24th?
A. I was standing on the sidewalk in Chickasaw offering——
Q. Where on the sidewalk were you standing?
A. On the outer edge by a post.
Q. You mean the curb?
A. By the curb, yes, and I was offering this magazine, I was calling to the passers by as they came by, "Watchtower, announcing Jehovah's Kingdom," and this offers the only hope——

State objects to that.

By the Court: We are not going to have any sermons; you just answer the questions.

By Mr. Powell:

Q. This Watchtower is the issue of January 15th, 1944?
A. Right, announcing Jehovah's Kingdom.

State moves to rule that out.

Q. Are these received prior to the date of publication?
A. Yes.
Q. What were you doing with these magazines?
A. I was offering them to the people who passed the sidewalk.
Q. You were selling them?
A. No, indeed; we offer them to any person of good will who desires to read them.
Q. Why do you offer them?
A. Because they might learn more about Jehovah's Witnesses——

State objects to that and moves to exclude it, and the Court overruled the objection and refused the motion.

Q. Were these given to the people?
A. Yes, sir, on many occasions.
Q. You say on many occasions, what was done on those occasions?
A. Any one who desires to contribute a few pennies towards our Christian work may do so; otherwise they were given to them free of charge. Besides that——

By the Court: Don't go into any explanation.

By Mr. Powell:

Q. When were you first accosted by the officer?
A. On the 11th of December?
[fol. 63] Q. December 11th?
A. Yes.
Q. What was done on that occasion?
A. We were taken into the Gulf Shipbuilding Office and held about two hours. On that occasion——
Q. Who took you to the Gulf Shipbuilding Office?
A. Mr. Chatham.
Q. And were you held there against your will?
A. Yes.

State objects to that and moves to exclude her answer, and the Court sustained the objection.

Q. When were you next accosted by the officer?
A. On the 18th of December.
Q. What was done on that occasion?

A. We were arrested and taken to Mobile.

Q. I might ask you first, was any case made against you on the 11th?

A. No, not to my knowing.

Q. What was done on the next occasion?

A. We were taken to Mobile to the County Jail.

Q. What did they do there?

A. They didn't book us; the man at the desk said if it was left to him that we never would have been brought in there in the first place.

Q. Were you released?

A. They told us to go ahead.

Q. And you went away from the jail at that time?

A. Yes.

Q. Well, then, was a case made against you on that occasion?

A. No.

Q. On December 24th, were you arrested again?

A. Yes.

Q. What was done on that occasion?

A. We were brought into the County Jail and were held there.

Q. Did you go see Mr. Peebles at any time prior to December 24th?

A. Yes, we called and made an appointment with Mr. Peebles.

Q. Who was with you at the time?

A. Aline Stephens.

Q. What took place there with Mr. Peebles?

A. We went in and we stated our position as Ordained Ministers of Jehovah and our sincerity in this work and it meant life and death to us——

State objects to that statement, and the Court sustained the objection, and Defendants reserved an exception to the ruling of the Court.

Q. State whether or not you explained to him the nature of your work at that time, Mrs. Marsh?

State objects as calling for incompetent, irrelevant and immaterial testimony.

[fol. 64] By the Court: Answer yes or no.

Witness: Yes, we did.

By Mr. Powell:

Q. Did you hear Mr. Peebles' statement where he said that you told him that you were representing Jehovah, or something like that?

A. Yes.

Q. Did you tell him something in that respect?

A. Yes.

Q. Did you explain to him, show him the magazines at that particular time?

A. Yes.

Q. What magazine did you show him?

A. The Watchtower and The Consolation; we offered him a copy of each.

Q. Did he take a copy?

State objects as immaterial, and the Court sustained the objection.

Q. Mrs. Marsh, at the time of your arrest on December 24th, what did the officer say to you when he came up?

A. He reminded me that I must go with him to the office and get a permit to do this work if I continued in this work.

Q. What office?

A. Go down to the Gulf Shipbuilding Company's office and get a permit.

Q. Did you explain to him the nature of your work?

A. Yes sir, I reminded him we were Ordained Ministers and that was the right granted to us by the Constitution; we were commanded by Almighty God to do this and we couldn't ask man for permits to do this work; we were not peddlers and we were not soliciting for anything, we were simply there carrying on our Christian educational work in an orderly manner.

Q. Mrs. Marsh, have you traded at the stores in that block?

A. Yes, on many occasions I have bought groceries there.

Q. How long has that been?

A. I have been working in this area?

Q. How long have you been trading in——

A. About six months.

Q. And at the time you traded there did you observe others using the sidewalk and the street to enter these various shops and places?

A. I cannot see any difference in any other town of the size.

[fol. 65] Q. State what buildings are in this block, is the United States Post Office one of the buildings?

A. Yes, and drug store.

By Mr. Inge: There is no dispute whatever about that.

By Mr. Powell: If it is admitted that it is generally used by the public without restrictions——

By Mr. Inge: No sir.

By the Court: Go ahead and ask your questions.

By Mr. Powell:

Q. You say that this town, the business part, is just like any other unincorporated town?

A. Yes sir.

State objects and moves to exclude that statement, and the Court sustained the objection and granted the motion.

Q. Just state to the Court how the sidewalk in front of these business properties is used?

A. It runs practically in front of the business as it does all other business in any town of its size.

Q. How is it used?

A. Used by the general public as all other towns.

State moves to rule out that statement, the witness is not competent, and the Court overruled the objection.

Q. State whether or not people walk back and forth and stop and talk?

A. Yes sir, as they do in all other towns.

Q. Are newspapers sold there like on any other town streets?

A. Yes.

Q. Is there any line of demarcation, state whether or not there is any line of demarcation between that property and the State Highway that runs right in front of it?

A. No.

Q. There is free access to this property?

State objects as leading, and the Court sustained the objection.

Q. How long have you carried on your ministerial work in this town?

A. I have been working this portion of Chickasaw for more than six months.

[fol. 66] Q. When did the notices first appear in the windows out there?

A. The first to my knowing that the notice was there was on the 24th of December, between the 18th and 24th the notice was put there.

Q. Was that the first time——

A. That was the first time any one had brought it to our attention or to our knowing it was there.

Q. Do you know whether or not it was put there previous to that?

A. Well, I didn't see it there.

Q. You didn't, if it had been there previous to that would you have seen it?

A. I should think they would have called our attention to it; that was the first thing they told us on the 24th; they called us and pointed out the sign; we were called in on two occasions before that and no notice had been called to our attention.

Cross-examination.

By Mr. Inge:

Q. Mrs. Marsh, I understood you to say that the Constitution gives you the right to go anywhere you wish and offer those papers?

Defendants object to that, and the Court sustained the objection.

By Mr. Inge: She said the Constitution gave her the right to go on that property.

By the Court: That is not a right for her to decide.

By Mr. Inge:

Q. You knew this property was owned by the Gulf Shipbuilding Company when you first went there?

A. No.

Q. You were told that on the 11th of December?

A. I was told I was violating or trespassing by working there doing our Christian educational work, but we were ac-

cused of selling and soliciting, but we were not doing that, and that wouldn't apply to us.

Q. You were told you couldn't stand there and distribute those pamphlets without a permit?

A. Yes sir, and that didn't apply to me because I wasn't selling anything.

Q. You were accepting money in return?

A. I was for some magazines, but a big portion of our literature is given free and no one is asked to pay any price.

[fol. 67] Q. You were inviting people to contribute, were you not?

A. No sir.

Q. Isn't it a fact that you would first offer the magazine in return for a contribution and then if the party didn't wish to contribute you would give it to them?

A. I offer it in this manner, "Watchtower Magazine, announcing Jehovah's Kingdom", and the people passing by would stop and ask what is this magazine, and then I would take and turn to the pages——

Q. Just a minute, I asked you a very simple question; didn't you first invite the party you talked with to contribute by paying some money to you in return for that magazine?

A. I did not.

Q. Did you accept any contributions on that day?

Defendants object as incompetent, irrelevant and immaterial.

Ans. I don't remember.

Q. You say some of the magazines you do accept contributions for?

A. If any one wishes to contribute towards carrying on this work we accept contributions, but it is not for the sale of the magazine at all.

Q. Had you accepted any contributions that day?

A. Not to my memory I had not.

Q. You had prior to December 24th been told that you could not remain there without written permission?

A. Yes sir.

Q. And after being told that you returned and that resulted in your arrest?

A. That is right.

Q. As a matter of fact, you were told that on the 11th of December and on the 18th of December?

A. Yes.

Q. And on the day when you were arrested, that afternoon, at the time of your arrest, were you engaged in going in the store to buy groceries or going into any of the stores?

Defendants object as incompetent, irrelevant and immaterial.

Q. You have shopped in the stores?

A. Yes sir.

Q. And no one has ever attempted to stop you from going into those stores and shopping?

A. No sir.

Q. You were not shopping on the afternoon you were arrested?

A. I had just had my dinner in the restaurant and made a purchase in the drug store.

Q. You were not engaged in shopping at the time you were arrested?

[fol. 68] A. No sir, I was engaged in my Christian educational work as an Ordained Minister of Jehovah Witnesses.

Q. You were standing on the sidewalk doing what you have described?

A. Yes.

Witness excused.

By Mr. Inge: There is one thing I would like to request and that is at the proper time I would like to withdraw this deed and take a photostatic copy and substitute it. It is obviously an important document of the Company.

By the Court: All right, sir.

By the Court: Is the testimony of the other four ladies and one young man the same as the testimony of this young lady here?

By Mr. Powell: They will be substantially the same.

By the Court: I presume an agreement can be made from a point of law. This lady testified fairly and frankly, without any qualification of any kind; I don't want to cut your case short.

By Mr. Inge: The State would be quite ready to admit they would testify to substantially the same facts; they wouldn't be exactly the same but substantially so.

By the Court: This lady testified she was warned and I presume the others, I don't know.

By Mr. Powell: May it please the Court, I feel confident that each one of the defendants would testify substantially to the same thing that just has been testified to by Mrs. Marsh, that they are each Ordained Ministers representing the Watchtower Bible and Tract Society and they were there in that capacity passing out literature in furtherance of their belief, as Ministers, on this same sidewalk.

[fol. 69] By the Court: And I believe she stated they were warned not to do so and she felt that she had the right to and said she would, I believe, to that effect, whatever this testimony was.

By Mr. Powell: I would like to incorporate in that that each one of them would be testifying in the same capacity and the character of the literature would be the same.

By the Court: All of the defendants are in the same situation, the same defense, the same applies to each one.

By Mr. Coley: All of them are Ordained Ministers of Jehovah's Witnesses and the testimony will be substantially the same.

By the Court: Let's have it firmly understood that the testimony in each case would be the same as the testimony of Mrs. Marsh.

By Mr. Powell: We intend to tender this in evidence for the next witness, if it is agreed that they will be introduced in each of the cases.

By Mr. Inge: I have no objection to that going in.

Note: It was agreed that the card will be considered as having been introduced in each of the six cases.

It was marked Defendants' Exhibit 3.

Said Exhibit 3 is as follows:

DEFENDANTS' EXHIBIT No. 3

To Whom It May Concern:

This Is To Certify That Grace Marsh, whose signature appears below, is an ordained minister of Jehovah God to preach the gospel of God's Kingdom under Christ Jesus and that said person is one of Jehovah's witnesses. The Watch Tower Bible and Tract Society, created and organized and chartered by law to preach the gospel of God's Kingdom, sends forth Jehovah's witnesses to do this work as commanded by the Almighty God. Jehovah's witnesses [fol. 70] are ordained and commissioned by God, and the signer of this card Scripturally claims such ordination and

commission, as set forth in the Bible at Isaiah 61: 1, 2; Isaiah 43: 9-12; Matthew 10: 7-12; Matthew 24: 14; Acts 20: 20; 1 Peter 2: 21; 1 Corinthians 9: 16. Being one of Jehovah's witnesses, the signer must obey God, rather than men. (Acts 3:23; Acts 4: 19; Acts 5: 29.) Jehovah's witnesses, in obedience to God's commandments, preach the gospel and worship Almighty God by calling upon people at their homes, exhibiting to them the message of the gospel of said Kingdom in printed form. Bibles, books, booklets, and magazines are offered free to those that are poor, or on contribution, which contribution is accepted for the publishing of other literature so that the Word of the Lord may have greater circulation in all this world for a witness, giving other people the opportunity of learning of God's gracious provision for them. Said witness of Jehovah is doing this work of his own volition and is bearing the testimony before the people in accordance with the provisions of the fundamental laws of this land and in obedience to God's commandment, which is supreme. Any kindness shown this witness of Jehovah will be greatly appreciated and is certain to call forth the blessing of the Lord upon the one showing such kindness. (Matthew 25: 31-46.) The Society or its appointed representatives will be pleased to furnish authoritative proof as to whether the signer of this card is one of Jehovah's witnesses.

Watch Tower Bible & Tract Society, By N. H. Knorr, President.

Name: Grace Marsh.
Address: Whistler P. O. 67, Alabama.

On the reverse side of this card is the following:

Freedom under a Righteous Government is Almighty God's purpose for all "men of good-will". As a most timely help toward the education of the people for that more abundant Freedom I bring you the book "The Truth Shall Make You Free".

This 384-page book is based on the great Textbook of freedom, the sacred Bible. By learning the truths set forth in this book you may enjoy a freedom now that makes [fol. 71] life worth living and that leads to everlasting life in the free new world under God's kingdom.

You may have this copy of "The Truth Shall Make You Free" by contributing twenty-five cents. Thereby you will aid in this educational campaign to enable others to stand fast for freedom.

HUGH CALHOUN BEDFORD, a witness for Defendants, after having been first duly sworn, testified as follows:

Direct examination.

By Mr. Coley:

Q. What is your name please?

A. Hugh Calhoun Bedford.

Q. How long have you lived in Mobile?

A. Well, I came to Mobile about 1908 and I was here until about 1922, and I resided at Bay Mintee for years and I came back here.

Q. In what year did you come back to Mobile?

A. It was I think 1930. At any rate it was the time that the Forchheimer Grocery Company liquidated their business; I think it was 1930.

Q. During that time were you in and out of Mobile all of that time?

A. Almost every week.

Q. You were salesman for Forchheimer Grocery Company?

A. I was.

Q. How long were you engaged as Salesman for Forchheimer Grocery?

A. Well, I began work with them, I think it was in October, or somewhere in the Fall of 1917.

Q. That is Forchheimer Grocery, wholesale grocery, here in Mobile?

A. Yes sir.

Q. And you worked as a salesman for them from then until 1930?

A. There was another time I was in the employ of the Forchheimer Grocery Company and I was with the Ogburn Davison Grovery Company.

Q. During that time did you have any occasion to call on the trade in Chickasaw?

A. Not so much that time as I did prior to that time when I was, from the time of the,—about 1913 or 14 some-

where along there, I was working in the City and was passing back and forth, and I have on various occasions been in Chickasaw, been there on business trips; I don't recall exactly the date, back and forth over a period of quite a number of years.

Q. Do you recall just when this so-called business block in Chickasaw on which a drug store and Post Office are [fol. 72] located, do you know when that was built?

A. I can't say definitely as to the date, Mr. Coley, because I didn't have anything particularly to impress it on my mind, but at any rate it was along about the time that I, just prior to the time that I went to work for the Forchheimer Grocery Company.

Q. That would have been then about 1917, would it?

A. Yes sir; from the period of time back, from the period of time from 1914 on up until early part of 1917, I was with another concern in the Mobile area and I, my work, was confined to the City and suburbs of Mobile.

Q. From 1914 to 1917 were there any buildings on that block?

A. I know there was a drug store and post office there along about that time.

Q. Is that in the same location, about where they are now?

A. I tell you I can't say definitely in regard to that because I haven't been out there lately and they may have been moved; I didn't have much occasion to use those buildings and I can't say definitely where they are located; I have been out there on other occasions, but prior to that time I can't definitely state, what date or year, exactly that time.

Q. You haven't been out there then in the last fifteen years?

A. Oh! yes.

Q. When you were there the last time was the drug store in the same place as when it was first built out there?

A. Well, I just don't remember that exactly because I didn't have that——

By the Court: Answer whether you do or not.

A. I can say substantially it is in the same place; I never surveyed the place, I don't know.

Q. Was the drug store in substantially the same location when it was first erected prior to 1917 as it is now and has been throughout that entire time?

A. So far as I know I think it is.

Q. Do you know, at that time was that open to the general public?

A. I should think so.

State moves to exclude his statement; he says he doesn't know anything about the property out there at that time.

A. I know I have been in the drug store out there lately in the past year or so, and I know I have been a number of times in the former grocery store operated by Coleman and [fol. 73] I have also been in the store operated by Delchamps.

Q. Is that in the same location as the store was first located?

A. Yes.

Q. Is that drug store in substantially the same location now as it was when you first knew it, about 1917?

State objects to that because he is predicating it on substantial, and the Court sustained the objection.

Q. Is it in the same location, Mr. Bedford?

A. It is approximately the same as far as I know; I cannot measure it.

State moves to exclude that, and the Court refused the motion.

Witness excused.

Ethel Smith, a witness for the Defendants, after having been first duly sworn, testified as follows:

Direct examination.

By Mr. Coley:

Q. Is this Mrs. Ethel Smith?

A. Yes sir.

Q. Mrs. Smith, how long have you lived in Mobile?

A. This coming June will be twenty-three years.

Q. During that period of time have you had occasion frequently to go out by Chickasaw?

A. I have.

Q. Are you familiar with the location of the property out there, the block where the post office and drug store and

grocery store and barber shop and what not are located?

A. I am.

Q. Did you have occasion to go into those places from time to time?

A. I have.

Q. Have you ever noticed any notices posted anywhere about on the front of the buildings restricting the manner in which they might be used by the public?

State objects to that; we don't know whether he means five years ago or a month ago.

A. I didn't notice any notice.

Q. Have you ever been stopped or warned by any officers, or anybody else, that there were any restrictions to the use of the sidewalk?

A. No sir.

Q. And you used it in going in and out of the buildings?

A. I have ever since I have been in Mobile, because when [fol. 74] I came here to Mobile I visited there.

Q. And then, beginning twenty-two or twenty-three years ago and extending up to the present time you have observed that place and have used that sidewalk occasionally?

A. Yes sir, I have.

Q. Have you observed whether others used it?

A. Well, they did use it.

Q. Have those business houses been open continuously since that time?

A. They have.

Q. Some of them?

A. Every time that I have been there.

Q. How often would you say you have been there, an average of how many times a month or year?

A. Well, when I first came here I visited quite frequently; I wasn't well known and had a good friend there and I visited on an average of once or twice a month, and I did that on up until once a month for several years until they left Chickasaw, and after they left Chickasaw I had no special reason for going, more than people I had met, and when I chose to take a ride and chose to ride out there I went whenever I got ready.

Q. That has extended over what period of years, how long have you been h e?

A. This coming June will be twenty-three years.

Q. You came here in 1921?

A. Yes sir.

Q. And those buildings have been on that sidewalk since 1921?

A. Yes sir.

Q. There is only one business block there in Chickasaw, isn't it?

A. Yes.

Cross-examination.

By Mr. Inge:

Q. Mrs. Smith, are you a member of the Jehovah Witnesses?

A. Yes sir.

Q. Where do you live now?

A. I live in Mobile.

Q. Have you ever lived in the village of Chickasaw?

A. No sir.

Q. You always have lived in Mobile since you came here twenty-one years ago?

A. Tweny-three years ago.

Q. And you say that your real occasions for going out there to Chickasaw within the first few years after you came to this community was to visit some friends who lived in the village?

A. Yes sir.

Q. When did they leave?

A. I cannot recall exactly; it seems to me they were there at least six or seven years.

[fol. 75] Q. And that after that you had no more occasion to go out there?

A. I had others out there.

Q. How often would you say you went to Chickasaw when the special friend was there?

A. I went quite often.

Q. After they left?

A. For the first few months maybe once a month and then my obligations and family grew and then I visited less.

Q. You rarely ever went out to Chickasaw?

A. Yes, I went often.

Q. You had no particular business there, you were just driving through or visiting people in the village?

A. That is true, no special reason.

Q. You say when you first started going out there you traded in some stores?

A. No, sir.

Q. Did you ever trade in any stores out there?

A. I did but not often.

Q. When?

A. The purchases I ever made was in the drug store.

Q. When was that?

A. Four or five years ago.

Q. Was the only time you ever made any purchases in any store there?

A. In the drug store, ice cream for the children and post office for mailing letters, and the golf course, my boys played and caddied on the golf course.

Q. You say the only time you did any shopping was in the drug store four or five years ago?

A. I didn't go there purposely but I just bought it while I was there.

Q. Did you ever stand on the sidewalk and give out or solicit people to receive any pamphlets of Jehovah Witnesses?

A. Not out there.

Q. That property is owned by the Gulf Shipbuilding Corporation?

A. I understand it is now.

Q. Do you know who owned it prior to that time?

A. I have no idea.

Q. You weren't particularly concerned while out driving about the uses that property was put to out there?

A. No sir, other than being a suburb of Mobile.

Q. You say you have never attempted to distribute any papers on the sidewalk out there, you have limited your activity to the City of Mobile?

A. Not entirely to the City of Mobile, but I have never been in Chickasaw for the street work.

Q. Do you mean to state that you know as a positive fact that that sidewalk that is now there has been in that identical location all that time?

A. Yes sir, the sidewalk has.

[fol. 76] Q. And the same stores?

A. Not operated by the same people, but the buildings have been there.

Q. Were the same buildings there all that time?

A. About it being the same buildings I can't tell you; there were buildings there at that time and have been buildings on that sidewalk ever since I have been going out there.

Q. Don't you know those buildings have been completely rebuilt?

A. Not in recent years I haven't.

Q. When was the last time you saw these buildings there now?

A. The last time I was in Chickasaw I didn't stop, I drove through there, just driving.

Q. You don't know what buildings are there now?

A. So far as the name of them I don't know who operates them but the same buildings are there.

Q. The same buildings there today have always been there?

A. Unless the old buildings have been torn down and more modern buildings have been put there.

Q. You can't say whether that has been done or not?

A. No sir.

Q. Don't you recall that that roadway just on the north of the business block going over the viaduct there, that that was completely closed up for nearly twenty years?

A. It wasn't closed that people couldn't go through Chickasaw.

Q. I didn't ask you that; I am talking about the roadway leading to the east, north of the business block, don't you know that was completely blocked off?

Defendants object to that, not involving the location where the arrest was made.

Q. That viaduct was closed up entirely by the Tennessee Land Company just north of the drug store there?

A. By my not living in Chickasaw, and my having no interest there whatever, not even buying groceries or anything, and not knowing this was coming up, I took no notice whatever about that, but by going through there, which I have gone through and stopping on different occasions, maybe once a month, or more or less, but on an average of at least once a month I have gone through and had communication with Chickasaw, but exactly as to where the road leads or how many buildings might have been there or what was kept in those buildings, I paid no notice, and on my weekly trips through I have made one purchase there, [fol. 77] and I have attended school programs and recrea-

tions there and my boys have played golf and caddied there, and on Sundays my husband and I have rode out through there.

Q. That is the point, you have had no particular reason to pay special attention to that one business block out there, have you?

A. No sir; the first time I went there I was walking and I walked on the sidewalk and when I visited there before I had occasion to go in the barber shop.

Q. You know there was a sidewalk out in Chickasaw and some stores there, but you don't know exactly where they were?

A. No, I don't.

Redirect examination.

By Mr. Coley:

Q. Mrs. Smith, by that you mean as far as measuring or locating it by inches or by the quarter section, and so forth, you know what it was?

A. That is right.

Q. It was the same sidewalk in front of the same buildings?

A. That is right.

Q. Mr. Inge asked you if you knew what use it was put to; I will ask you if that sidewalk there was not put to the same use as the sidewalks in the town of Prichard?

A. Yes sir, and I have worked in the town of Prichard.

Q. Did you see any difference in the use of the sidewalk out there and the use of the sidewalks in Prichard?

A. No sir; no different from any suburbs of Mobile, and I have visited all suburbs of Mobile.

Recross-examination.

By Mr. Inge:

Q. You don't know what that sidewalk was used for; you never saw anybody put off?

A. I have never seen anybody put off.

Q. And you were never asked to get off?

A. No sir.

Q. You weren't soliciting any thing there?

A. No sir.

Q. You weren't carrying on any business or offering to sell anything?

A. No.

Witness excused.

C. C. PEAVY, a witness for the Defendants, after having been first duly sworn, testified as follows:

[fol. 78] Direct examination.

By Mr. Coley:

Q. Is this Mr. C. C. Peavy?

A. Yes sir.

Q. You are the Assistant United States Postmaster at Mobile?

A. Yes sir.

Q. How long have you held that position?

A. Since February 1, 1922.

Q. Mr. Peavy, are you familiar with the United States Post Office at Chickasaw?

A. Well, I know something about it since we took it over on the 16th of March this past year.

Q. 16th of March this year?

A. No sir, 1943.

Q. It is now a part of the Post Office at Mobile?

A. Yes sir.

Q. And operated as such?

A. As a classified branch of Mobile.

Q. Are you familiar with its location?

A. Yes sir, I know where it is; it is in that new building.

Q. Were you familiar with the location of the Post Office at Chickasaw prior to this time?

A. You mean the little wooden building.

Q. Yes?

A. Yes sir.

Q. How long have you known the location of that old Post Office building there?

A. About twenty-five years, built back in 1918.

Q. That was in that little old wooden building up the street a little piece from where it is now in the new building?

A. It is this side of the present site.

Q. And it fronts on the same sidewalk as the new building does now?

A. It faces the same street. As a matter of fact, it is some distance back from the street. It wasn't exactly on the street, there was some little grass plot out between the little wooden building and the sidewalk.

Q. Was that sidewalk used in going and coming from the Post Office?

A. I don't quite understand the question.

Q. I mean this, when the patrons went to and from that Post Office?

A. They ordinarily walked on the sidewalk, and maybe some stepping stones, or something, I don't remember what it was; it was set back a little ways from the street; it wasn't on the sidewalk like the new one.

Q. That United States Post Office has been maintained continuously on that location ever since 1918, has it?

A. The best of my recollection it has. We opened it up originally as a branch in the Fall of 1918, in the other war, [fol. 79] and we kept it going for a number of years after the war, and business got down so low there that we just let it revert into an independent office. It started out as a fourth class and later got to a third class; I don't remember the date of the change.

Q. Mr. Peavy, what territory is served by that Post Office?

A. Well, that would almost take a man who knew the City delivery service out there to tell you that; I don't really know; we have six carriers assigned out there and have managed to deliver mail to the various housing projects of the Alabama Village and Gulf Homes, all different things.

Q. Alabama Village and Gulf Homes and all that territory that is built up in that neighborhood?

A. I think we undertake to serve the whole area.

Q. And that area extends back to where the Prichard area meets it, doesn't it?

A. I don't exactly know where the division line is.

Q. It is served, that whole area is served by delivering, delivery by mail carriers, house to house delivery?

State objects as immaterial.

Q. Are there any restrictions limiting the use of that Post Office to those people who live in property owned by the Gulf Shipbuilding Company?

A. Not that I know of.

Q. Have you ever heard of anything like that?

A. No sir.

Q. And there are no restrictions in the usage of the Post Office by anybody so long as it is properly used?

A. Not that I know of.

Cross-examination.

By Mr. Inge:

Q. Mr. Peavy, is that present Post Office building there leased by the United States Government from Gulf Shipbuilding Corporation?

A. Yes sir.

Q. And a monthly rental is paid for it?

A. It is leased on an annual basis; I settle up with him every month.

Q. The old Post Office was located considerably south of the stores, some several hundred yards south of the stores, wasn't it?

A. Which way would south be, towards Mobile?

Q. Yes?

A. It was some little distance; in fact, if I remember correctly, it almost had quite a little area there to itself.

[fol. 80] Q. To get to the Post Office you had to walk some distance from the sidewalk running north and south?

A. It was set back some little distance.

Q. On the property?

A. That is right.

Q. This present Post Office is not on that identical site at all?

A. No sir; it is in a brick building.

Q. It still is set back a considerable distance from the sidewalk?

A. No, it isn't; if I remember correctly, the post office is recessed to some extent further back than the stores but not to the extent the old one was.

Q. Not to the extent it used to be?

A. No sir.

Witness excused.

WILLIAM C. MYLES, a witness for the Defendants, after having been first duly sworn, testified as follows:

Direct examination.

By Mr. Coley:

Q. Mr. Myles you were sworn this morning, were your?
A. Yes sir.
Q. What is your name?
A. William C. Myles.
Q. What is your business?
A. Local Manager for the Tennessee Land Company.
Q. How long have you acted in that position?
A. I have been connected with the Tennessee Land Company since September 1st, 1918.
Q. Tennessee Land Company formerly owned most of the property out at Chickasaw which is now owned by the Gulf Shipbuilding Company?
A. That is correct.
Q. I believe it was sold to the Gulf Shipbuilding Company in 1941?
A. Sold to the Chickasaw Development Company.
Q. And then the Chickasaw Development Company sold it to them?
A. Yes sir.
Q. You have been familiar with the development of all of that property, haven't you?
A. Not since we sold it.
Q. You live out there now?
A. No sir.
Q. Lived there recently at all?
A. Not since 1930; my office is there now; I am in Chickasaw every day.
Q. Mr. Myles, do you know where the so-called business block is located there, do you?
A. I do.
[fol. 81] Q. Is it not a fact that in 1918, about that time, the drug store was built in its present location?
A. No sir, it wasn't any drug store there at that time.
Q. When was it put there?
A. The business block was consfructed and taken into our accounts in 1921.
Q. Then in 1921 the drug store was built?

A. The drug store was built along with the other buildings in the business block which at that time contained four stores.

Q. What were those stores?

A. Drug store, hardware store, grocery store and a restaurant; that was the first businesses in that business block, together with a bakery in the rear.

Q. When was the barber shop erected?

A. The barber shop was not in use in the business block during the activities of Chickasaw. The barber shop was a separate building across the highway.

Q. When was this beauty parlor put in?

A. I know nothing of that; that was after we disposed of the property.

Q. Now, Mr. Myles, the Post Office was located in a small building up until recently?

A. That is right.

Q. When this new Post Office Building was erected?

A. That is right.

Q. That was in the same block as these other buildings, —how long is that block?

A. Well, the business block, the business building as it was originally constructed was 120 by 150 feet, the Post Office, the frame building which housed the Post Office up to the time of the transfer, which was recently, I understand, was approximately one hundred feet south of the old original business block building. That business block is approximately two hundred and fifty feet long.

Q. And the Post Office and these other buildings were on the same block?

A. The only building that was in that area.

Q. It wasn't several hundred yards down to where the old Post Office building was?

A. Not from the business block.

Q. The whole block is not more than two hundred and fifty feet long?

A. The whole circle there, the street, is not over two hundred and fifty feet long.

Q. The old Post Office building fronted on the same sidewalk that is there now?

A. No sir; there was a sidewalk leading from the walkway there at that time; there was a dirt walkway into the [fol. 82] Post Office, but there was a concrete walkway about

three feet wide that ran from the frame to the side wall; it was a walkway but not paved.

Q. It was paved up in front of these buildings?

A. That pavement is a part of the construction of the building. It is a part of the building itself; the construction runs with a step-up into the present buildings. The foundation of that sidewalk was laid right down with the construction of the building when it was put up.

Q. The store buildings?

A. Yes sir.

Q. And it has been extended on down to where the present post office is?

A. I believe so.

Q. And the general public has access to that post office?

A. Yes sir, limited service.

Q. And has since it has been built?

A. Yes, sir, they have a right to go and get the mail.

Q. They weren't told they didn't have any other rights?

A. That depends.

Q. I asked you were they told?

A. No sir, they weren't told.

Q. They didn't have any notices up there saying you can't do anything else but get your mail?

A. The Post Office?

Q. Yes, sir?

A. I don't know any post offices that do.

Q. These stores, could you go in, could the general public go in and buy stuff from these stores?

A. Why certainly.

Q. Any different in those stores from any of the other stores operated by Coleman?

A. No, sir.

Q. Just as the other Coleman stores,—I believe he had one in Prichard and one in Mobile?

A. Yes sir, operated as places of business.

Q. And the drug store has been operated there continuously since it was erected there?

A. Yes sir; there was a short delay in there, from one lessee to another, when it was not occupied, but that was a very short time.

Q. Now, Mr. Myles, you are familiar with all of the property owned there by the Chickasaw Shipbuilding Company?

A. I wouldn't say that I am familiar with that part of the property that they have bought from us.

Q. They bought from you that part where the Chickasaw houses stand?

A. No sir, the Chickasaw Shipbuilding Company did not buy those from us.

[fol. 83] Q. Do they own it now?

A. So far as I know they do; I don't know.

Q. Do you know whether or not the mail carriers from this United States Post Office which you have described there, deliver mail to the houses and offices and what not along in Chickasaw?

A. I could not say in that regard because there was no mail deliveries there until last year. During our administration there were no mail deliveries; the people had to come to the Post Office for it.

Q. And you don't know since then?

A. No sir; I cannot give any statement beyond the time that we leased it.

Q. Do you have your mail delivered to your office now?

A. No sir, we have a special messenger who we pay to bring our mail.

Cross-examination.

By Mr. Inge:

Q. Mr. Myles, will you examine this paper that purports to be a deed from the Tennessee Land Company to the Chickasaw Development Company and state whether or not that is the original deed that was given by the Tennessee Land Company to the Chickasaw Development Company covering what you know as the business block out there?

Defendants object to that.

By Mr. Inge: The gentlemen brought out that the property was owned by the Chickasaw Development Company during the intervening time that the Tennessee Land Company and the Gulf owned it. I want to show that that was deeded by the Tennessee Land Company to Chickasaw Development Company without any reservations.

The Court overruled the objection.

Ans. This is the original deed.

By Mr. Inge:

Q. Do you know of your own knowledge that that is the so-called business block description?

A. Yes sir, comprises some twenty-three acres.

Q. Mr. Myles, during the entire time that the Tennessee Land Company owned that business block, is it not a fact that you were in charge of that property?

A. Yes sir.

Q. Managed it?

A. Yes sir.

[fol. 84] Q. Did you assess the property and pay the taxes on it?

A. We did.

Q. Did you at all times throughout that period assess and pay taxes on all of the property embraced in the description in that deed?

A. We did.

Q. Including the property on which the sidewalk was constructed?

A. We did.

Q. Was there any express dedication by the Tennessee Land Company of any sidewalk or street within that area?

A. No sir.

Q. Mr. Myles, during the time the Tennessee Land Company owned the business block and the stores there,—and incidentally the Gulf Shipbuilding Corporation has added some stores, has it not?

A. That is correct.

Q. During that time did you permit the public to come there and visit those stores and shops, have ingress and egress?

A. At the time of our administration?

Q. Yes?

A. We did.

Q. You did at all times permit that?

A. Yes sir.

Defendants object to that as a conclusion, and the Court sustained the objection.

Q. Did the Company ever object to any one going in there and having ingress and egress to the stores?

A. No sir.

Q. You did not?

A. No sir.

Q. You never have objected to that?

A. No sir.

Q. Did you maintain control over the use of that property in that business area and sidewalk and roadway?

A. We did at all times; we maintained control of all of our property, including that.

Q. Including the sidewalk?

A. And including the entire property.

Q. During the whole time you owned the property did you permit any form of soliciting, selling or vending without obtaining permits?

Defendants object as incompetent, irrelevant and immaterial. Objection withdrawn.

Q. Didn't you require permits?

A. We did.

Q. Throughout the whole time you were in charge of it?

A. Yes sir.

Redirect examination.

By Mr. Coley:

Q. Who issued the permits?

A. We issued them in our office. I signed them myself. [fol. 85] Q. Give us the name of one person you issued permits to?

A. No, I can't do that now.

Q. Isn't it a fact that never during the entire time you were in that office did you issue a permit to any individual to sell, peddle or anything else?

A. You think I would make a misstatement under oath, Mr. Coley.

Q. You might make a mistake?

A. I am not making a mistake.

By Mr. Inge: He is his own witness and he is attempting to impeach him.

By Mr. Coley:

Q. Mr. Myles, isn't it a fact that these, that these Jehovah Witnesses worked all through Chickasaw with these sound trucks?

A. Not with our permission or to our knowledge.

Q. You were not deaf any time were you?

A. I don't think so.

Q. You had officers out there, didn't you?

A. Yes sir.

Q. Did you ever issue a permit to any member of the Jehovah Witnesses?

A. We did not; we were never called on by the Jehovah Witnesses.

Q. You were summoned here or called here this morning as a witness by the State, were you not?

State objects as immaterial, and the Court sustained the objection.

Q. Now, can you give me the name, Mr. Myles, of any officer who has arrested anybody for peddling or soliciting out there without a permit?

A. We didn't make an arrest, they have stayed away, who were selling something we objected to. In making our leases in this business block we give those lessees exclusive right; when some one comes in peddling any commodities sold by that business we object to it, we request those people not to come back, and they don't come back.

Q. In other words, the men who leased the building had the right to the sidewalk in front of it?

A. Why certainly, he had right to the sidewalk in front of it.

Q. That is the building?

A. Yes sir.

Q. And when you leased it that was the understanding?

A. Yes sir.

Q. And that always has been the understanding since you had anything to do with it?

A. That sidewalk was not covered in our leases; the building itself was rented and naturally the sidewalk would be a part of the building, if you wanted to look at it in a proper sense.

[fol. 86] Recross-examination.

By Mr. Inge:

Q. You know nothing about the present leases?

A. No sir.

Q. They were made by the Gulf Shipbuilding Corporation?

A. Yes sir.

Q. There wasn't anything mentioned about the sidewalk in your leases, were they?

A. No sir.

Q. Did the Tennessee Land Company maintain any peace officers or employees charged with patrolling or policing the grounds out there?

A. We did.

Q. You maintained that official and he exercised the power given him?

A. Yes sir.

Re-redirect examination.

By Mr. Coley:

Q. In this deed you say there were no restrictions in this deed as to streets and sidewalks?

A. Not as far as the business block; that is the question we have before us I believe.

Q. The restrictions to the streets were at each end of the business block?

A. No, no restrictions as to each end.

Q. You reserved the roadway at each end?

A. We reserved the present road for our use or our assignees; it now goes over the viaduct; when we sold the Gulf Shipbuilding Corporation the property, the viaduct was down; we took it down in twenty-seven to make room for the G. M. & N. Railroad.

Q. Can you tell me, Mr. Myles, how you go to the old Southern Depot back of the Chickasaw property?

A. The depot was never on the Chickasaw property.

Q. Where was that?

A. In the middle of it; it was on the right of way of the Southern Railroad.

Q. You had to cross the Chickasaw property to get to it?

A. Yes.

Q. That depot, that was owned by the Railroad Company?

A. Yes sir.

Q. And they maintained a depot there for many years?

A. Yes sir.

Q. Do they still maintain it?

A. Yes sir, still maintain it.

Q. And in order to get to it you have to drive over the road west of the Gulf Shipbuilding Company?

A. I want to make it clear; no road that concerns any part of this business block property; when this business block property was sold it was conveyed down to the center of that road; at the present time their ownership comes to [fol. 87] the center of the road leading by the Southern Depot. We own the south center and they own the north center. The road has been approximately in its present location.

Q. For the past twenty-four years?

A. Yes sir, nineteen sixteen.

Q. As a matter of fact, none of those streets,—in the use of those streets, while you had title to that property, you have never stopped anybody from using it so long as they used it in an orderly and proper manner?

A. Yes sir, and were not on there for any gainful purpose.

Re-Recross-examination.

By Mr. Inge:

Q. That road leading from the Craft Highway down to the station is some distance south of the business block and hasn't anything to do with the business block?

A. That is approximately a thousand feet south.

Witness excused.

By Mr. Inge: I offer in evidence this executed deed from Tennessee Land Company to Chickasaw Development Company, Inc.

It was marked State's Exhibit 3.

State's Exhibit No. 3

Note: This deed, marked State's Exhibit 3, has a map or plat attached thereto and made a part thereof, and as the said map or plat cannot be copied by me on the typewriter, and cannot be detached from said deed, I am not attempting to copy said deed herein.

Chas. L. Rehm, Court Reporter.

Defendants rest.

Motion to Dismiss

By Mr. Powell: We have a motion we would like to make at this time.

Now comes the Defendants at the close of all the evi-[fol. 88] dence and move to dismiss the complaint and for a finding of "Not Guilty" upon the following grounds:

1. The undisputed evidence shows that the Defendants are not guilty as charged in the complaint.

2. The Defendants are ordained ministers, preaching the gospel of God's Kingdom by distributing literature containing Bible sermons, and therefore the statute as properly construed does not apply to the activities of the Defendants.

3. The undisputed evidence shows that the articles delivered by the Defendants, to-wit, the literature in question, were published by the Watchtower Bible and Tract Society in Brooklyn, New York, and shipped to Defendants to be delivered by Defendants to persons of good-will toward such Society, and to apply the statute in question directly burdens and abridges the Defendants' rights under Article 1, Section 8, Clause 3, of the United States Constitution.

4. If the statute is construed and applied to cover the defendants' activity, then it unlawfully abridges and denies Defendants' right of freedom of conscience, freedom to worship Almighty God, freedom of Speech and freedom of press contrary to the United States Constitution, First and Fourteenth Amendments.

5. If the statute is construed and applied to cover the Defendants' activity, then it unlawfully abridges and denies Defendants' right of freedom of conscience, freedom to worship Almighty God, freedom of speech and freedom of press, contrary to the Constitution of this State.

6. The prosecution has wholly failed to make out a case against the Defendants and the evidence shows that the Defendants are not guilty of the offense charged.

Wherefore, the Defendants pray that this court dismiss this case and that the Defendants be discharged.

By the Court: I overrule the motion. I will let the verdict [fols. 89-90] of the lower Court stand.

REPORTER'S CERTIFICATE

I, Chas. L. Rehm, an Official Court Reporter of the Circuit Court of Mobile County, Alabama, hereby certify that the foregoing seventy pages contain a true and correct transcript of the stenographic notes taken by me of the proceedings had in the foregoing styled cause on January 27th, 1944.

I further certify that wherever herein exhibits have been copied that the copies herein of said exhibits are true and correct copies thereof.

Given under my hand this 21st day of June, 1944.

Chas. L. Rehm, An Official Court Reporter of the Circuit Court of Mobile County, Ala.

CONSOLATION

A JOURNAL OF FACT, HOPE AND COURAGE

'Whom to Trust Now'

Fort Smith, Arkansas, has an uneasy bank president

How Catholic Is Italy?

Italians not as deeply mired as some imagine

Quebec Consecrated to Mary

Hon. Godbout advertises his lack of common sense

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The promised seed of Abraham and His associates

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Judge Voltz Should Be Locked Up

◆ If what the Alexandria, La., *Daily Town Talk*, surprisingly, says about Judge Gus Voltz, of that city, is correct, then, for the safety of the community, the man should be locked up. After sentencing two of Jehovah's witnesses to pay fines of $25 or serve thirty days in jail for preaching the gospel from house to house, he is alleged to have made the following untruthful, vicious and anarchistic statements:

Your organization is wholly Communistic and against everything that is religious and wholesome in this country. You are trying to break down respect for our flag and government. I have been told that you have been spreading propaganda among Negroes that they were descended from the Japanese and are trying to get them to rise up against the white people. There will come a time when your kind will be run out of this country. You should not be sentenced to a jail term but instead you should be manhandled. In time of war we have no place in this country for people of your kind.

It seems sad that a fine city like Alexandria should be reduced to having such a man sitting on the bench. How he could crowd six lies in less space is hard to understand. His rightful place is in Germany, on the bench of the Gestapo.

Just Before Bataan Fell

◆ Just before Bataan fell hospital No. 1 was severely bombed; the Japanese apologized. Four days later the same hospital was bombed again, killing 47 Americans and wounding fifty-three more. So says an American officer in Australia.

American Indians Increasing

◆ In the year 1939 the number of American Indians increased from 342,497 to 351,878, or about 3 percent. This was the largest gain of any group in the country.

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CONSOLATION

"And in His name shall the nations hope."—Matthew 12:21, A.R.V.

Volume XXV Brooklyn, N. Y., Wednesday, December 22, 1943 Number 633

"Whom Can You Trust Now?"

FORT SMITH, Arkansas, was recently in the news. The Supreme Court of the United States had just decided that Fort Smith cannot make ordinances that will prevent Jehovah's witnesses from carrying on their good work of enlightening the people regarding the purposes of Jehovah God now and in the near future. Fort Smith authorities attempted to prevent this work from going forward.

While this case was still before the Supreme Court, I. K. Nakdimen, president of the City National Bank of Fort Smith, had the equivalent of a column in the *Tribune* of his city, under the rather lengthy caption, "The Country Has Never Been in a Condition or in a Position as We Are Now." But it was not war that Mr. Nakdimen was thinking of, as the following paragraphs from his editorial make clear:

When the newspapers expose men like Du Ponts, the Public Utilities, Standard Oil Co., the Aluminum corporations, newspapers and others, it is not pleasant to consume the thought that goes through our minds.

Whom can you trust now? On whom can you depend now?

The question we ask ourselves, Is the world coming to an end? Then if it is, we can account for it. At the same time none of us wants to feel and imagine that the world is coming to an end. But if it is, there is no one to blame but ourselves. There is no one responsible but ourselves because we know it and we are silent. We can help and we do not. We are lacking in speaking out our thoughts. We are lacking in expressing our feelings, fearing it may displease some one; it may ruffle some one's dignity; it may displease some of our friends.

If we are willing to be destroyed without speaking out and without crying out the cold facts one to another, then what else can we expect?

The Bank President Is Uneasy

Mr. Nakdimen makes it quite plain that he is uneasy, and it is not the little fellows that he is uneasy about: it is the big ones. He mentions some big companies, and without indicating or implying that all or most of these are in the class he has named, yet it is just as well to know who are the mighty ones in the earth in these days, which the Lord likens to "the days of Noah".

The twelve concerns in the United States that have assets ranging from about $6,000,000,000 down to $2,000,000,000 are, in the order named, Bell Telephone, Metropolitan Life, Prudential, Chase National Bank, National City Bank, New York Life, Equitable Life, Guaranty Trust Company, Pennsylvania Railroad, Standard Oil of New Jersey, Bank of America, and the United States Steel Corporation, sometimes called the "Steel Trust".

In the next class, ranging from about $2,000,000,000 down to $1,000,000,000 are the big Chicago Bank, New York Central, General Motors, Southern Pacific, Mutual Life, First National Bank of Chicago, Northwest Mutual, Consolidated Edison, Santa Fe, Central Hanover Bank, Bankers Trust Company of New York, Baltimore and Ohio, Union Pacific, John Hancock Mutual, Travelers Insur-

ance, Manufacturers' Trust, Cities Service, and the Du Pont de Nemours Company.

Mr. Nakdimen mentions but four concerns, and there are thirty in the above list, but some of the remaining 26 will receive some attention in this article. These big fellows do some big things, and relatively good things, but they do other things too that make Mr. Nakdimen and other citizens uneasy.

Before the war, American automobiles were found in every corner of the world. It is not unreasonable to admire the enterprise that made such a thing possible. The automobile workers know about it, and are proud of it, but their spokesmen claim that in a $3,000 automobile the investment of their time in wages brings the workers only $180. They do not think that is a fair division. Do you?

Now the plants that were making automobiles are making bombers. The Ford bomber production plant at Willow Run is probably the greatest single manufacturing plant ever designed and built with but one objective in view. Every American is interested in that plant. Inevitably so.

Americans are interested in the achievements of all their big producers. They cannot help it. The world steps aside to let any man pass who knows where he is going. It does that for Henry J. Kaiser, the builder of dams, bridges, roads, airports, ships, and now, probably, of cargo airships. Kaiser shuttles back and forth between Oakland, Calif., and Washington, D. C. Said to be soft-spoken and kindly, he travels with two or three engineering aides, works day and night, and spends a quarter of a million dollars a year in long-distance telephone hookups. His new methods of building ships complete in less than two weeks have eclipsed the world.

Transport and Packing Giants

The mention about building cargo airships is not merely fancy; for the W. J. Dillner Transfer Company of Pittsburgh has already applied to the proper authority in Washington for permission to set up an air hauling service to any point in the United States and Canada. Household goods would be carried uncrated. A Fort Dodge, Iowa, concern has made a similar request.

In wartime, whether their work is well done or poorly done, the big meat packers are a big factor in American life. Last year the sales volume of Swift and Company, $1,409,405,770, was the largest in its history. That is a lot of meat. The concern has a capacity of turning out 8,000,000 pounds of canned meat a week.

Dehydration is necessary, on account of the submarines, and has arrived with a vengeance. Ten pounds of fresh vegetables are dehydrated to one pound; 11 pounds of liquid milk become one pound; three dozen fresh eggs become one pound of egg powder. The two cubic feet of space required for 58 pounds of shell eggs becomes less than half a cubic foot when the same food is shipped as 11 pounds of egg powder. A year or more ago the government was taking the entire output of 87 egg-drying plants, and was paying from 98c to $1.13 a pound for the dehydrated egg powder. A five-ounce package represents a dozen eggs. Dehydrated meat occupies one-half the volume and weighs one-fourth as much as lean meat.

Communications are improved. The biggest giant of all, the American Telephone and Telegraph Company (which members of Congress have said is more powerful than the government itself) has just laid a new transcontinental telephone cable from New York to San Francisco. Most of the cable was buried in soil by giant tractor-drawn plow trains which dug the furrow, laid the cable and covered it with earth in a continuous operation.

Lighting achievements are marvelous, but they are but a fraction of what they might be. Half the light bills of the country could be chopped off by installing fluorescent lighting in place of the

lazda lamps which the big Edison and Vestinghouse companies, for reasons of evenue only, continue to shove over on he public.

emand a Technocracy Dictatorship

The Technocracy crowd are so impressed with their achievements (real chievements they are, too) that in page dvertisements in some of the great etropolitan newspapers they have demanded the total conscription of all men, omen, machines, material and money nd that all shall get the same wages. In ther words, they have demanded that is country, in its fight for freedom, hall give up every particle of its freeom and become a totalitarian state in he most absolute sense. Then, after the ar is over, there could be another great ar (maybe) to get rid of the Technocacy crowd that would by that time be quarely on the necks of the common eople. That would require another batch f self-chosen saviors, and so on ad nfinitum.

Standard Oil was mentioned by name y Mr. Nakdimen; so just a few words n that well-oiled subject. On August 20, 942, officials of the Standard Oil Comany of New Jersey told a Senate committee in Washington that their company for nearly four months after Pearl larbor paid royalties to Germany on the se in America of an American invention ital to American fighting planes and ntiaircraft guns. The next day, Robert l. Hunter, special assistant to the attorney general, and a former Ohio State niversity professor, said that of six tandard Oil officials five had made deliberate misstatements and there was only ne of the lot that he could believe.

Nine days still later one hundred of merica's best picked scholars met at olumbia University, New York city, in eir third annual conference on science, ilosophy and religion. They confessed at they were confused. They decided at they needed mental assistance in aking clear to themselves "the nature of the democratic process and of the ethical, artistic, literary and spiritual values we are defending"; and so they solemnly decided that next year "the conference should include within its membership a group of men of affairs".

Ah! That is what mankind needs. Give us more technocracy and Standard Oil men to guide mankind out of the darkness. To be sure, five out of the six will lie so that nothing they may say can be believed; but what can the scholars do without their aid? The scholars go on to say that they "await the creation of a series of fellowships in the fields covered by this conference". That is where the Standard Oil crowd comes in. They can furnish the mazuma and the scholars will then put it over in A-1 shape. Maybe.

28 Pages of Crooks

If the professors that are settling mankind's problems of science, philosophy and religion run out of technocracy and Standard Oil timber they should at once communicate with Congressman Louis Ludlow, of Indiana. That gentleman supplied Congress with 28 pages, single-spaced, of the names of officials and supervisory employees of defense contractors whose salaries were boosted 30 percent or more after war contracts were awarded. Uncle Sam pays the increase as part of the cost of the work. Increases of salary reached as high as 700 percent. Seventeen officials of one company were raised from $125 to $300 (their original salaries), to a flat $450 each per month. Six hundred officials of one company received increases of more than 80 percent.

Some assistance could also be rendered by the publishers of *Labor*. In a recent issue that periodical mentioned Harry Brown, a York, Pa., manufacturer, who was given a major's commission in the army's services of supply while he was under indictment on charges of defrauding the government of thousands of dollars in income taxes. The gentleman was given a two years' sus-

pended sentence, fined $2,000, and ordered to pay back taxes and penalties of $36,000. The same periodical lists Morton Bodfish, $20,000-a-year lobbyist for money lenders, who at one and the same time wrote to his clients declaring that "democracy is mob government" while he is himself holding down a "dollar-a-year" job in the office of the secretary of the navy.

Labor nearly always has some names that could be added to the list. In another issue it makes mention of the nine firms (three of which were the General Electric, Phelps-Dodge Copper Corporation, and United States Steel Company) that were fined $77,500 on charges of conspiracy to fix prices on navy orders for $50,000,000 worth of cable.

Perhaps this is as good a place as any to mention that one of the standard ways of making a fortune in these days is to rise to the position of executive of some big business organization and then gang up with the other members of the board of directors to see to it that no matter what happens, the executives shall be paid sky-high remuneration. A favorite cry is that the stockholders of these big companies are widows and orphans. Allowing that to be the case, the executives of many such corporations are engaged in taking from widows and orphans all that can be obtained. A little note in a UP dispatch from Washington makes this all clear. After discussing the operation of the president's policy for limiting net salaries to the sum of $25,000, it reverted to the big business crowd and then made this reasonable and reasoned statement of what would be the result:

> Some officials doubted that many corporations would reduce the compensation of their high-salaried executives, but felt that in most cases corporations would continue to pay the same rate and then tap their general funds for the extra taxes.

Achievements of U.S. Steel

One of the marvels of the world is the production of steel in the United States. This country now produces every month as much steel as Japan can produce in a year; it produces every six days as much as Italy can produce in six months; it produces every day three times as much as Germany and all the countries under her control can produce in the same time. The plate tonnage, now around 1,000,000 tons a month, is twice the tonnage that all the rest of the world can roll. The hopes of an Allied victory in this war rest to a considerable degree upon the men that manage the affairs of the United States Steel Company. One of the former presidents of this colossal company was Myron Taylor, President Roosevelt's personal ambassador to the Vatican.

One of the main component parts of the United States Steel Company is the Carnegie Steel Company, which in the previous world war supplied defective armor plate used on United States navy ships and in guns. Some of the guns blew up and killed 147 sailors and marines. The ships at sea had blowholes in their armor. For these misdeeds the United States government received back $140,000 in cash; not much, to be sure, but enough to show that somebody did wrong in the matter of inspection, and that this particular subject should be closely watched. It is therefore of interest to quote what *In Fact* has to say under the heading "History Repeats", in its issue of April 5, 1943:

> Last week Carnegie-Illinois Steel, branch of the United States Steel Corporation, was found passing off substandard steel to U.S. navy, using fake tests. Almost immediately U. S. Steel began a big advertising campaign, taking page ads in NYC and other papers. Sure enough New York *Sun* report was not a story of big corporation sabotage of U.S. war effort, but a whitewash which began by quoting Pres. Perry saying it was all regrettable, headed: "Big Steel Regrets Employees Faked Tests for Navy Plates." *Herald Tribune* faked the news in an editorial which said: "The revelation before the Truman committee

at workers . . . " etc. This is falsehood. The me was not committed by workers but by pectors who were acting for higher-ups. At y rate the crime was not committed by the rkers. The crime was exposed by a super- or of inspection. *World-Telegram* said: vidence does not implicate the higher-up ecutives." New York *Times* editorially ad- ed readers to believe high officials' state- nts. When ex-Ambassador Gerard, U. S. el stockholder, telegr phed Truman Senate mmittee corporation directorship by J. P. rgan is to blame, *Daily News* ran column ry. *Times* buried two paragraphs. U. S. el now joins Anaconda Copper and U. S. rtridge Co. in sabotaging military supplies r U. S., endangering lives of our troops. thing in all the history of labor is as un- nerican as the actions of these corporations.

The Baltimore *Sun* seems to have more urage than any of the so-called "news" pers referred to in the foregoing. heir column-long story on March 24, 43, (the day that the news became pub-) was headed, "Admit Steel Tests aked; Employes of Carnegie-Illinois eny Any Motive Except Patriotism; ead of U. S. Steel, Parent Concern, ays Those Responsible Will Walk lank." Even that was whitewashed. But e next day the paper said editorially:

Letters and oral testimony by company ficials were offered as evidence that in- ectors in the Irvin plant ordered falsifica- n of test records in order to make imperfect ates appear to meet specifications. Com- ittee members connected another Carnegie- linois plant with the Kaiser-built tanker henectady, which broke up in January hile on its trial run. The ship began to eak, it was shown, in plates supplied by e Homestead plant of the same corporation, d these plates were described in a report the collapse by the American Bureau of ipping as "brittle" and "more like cast iron an steel".

Any reader of this magazine who inks that the financial heads of the nited States Steel trust will come into ourt and admit having any responsibility for sending out brittle steel that is about on a par with cast iron should see a good physician immediately. When a thing like this comes to light, the first thing to do is to pick some poor man like the man who wrote the following letter to the Truman Senate Committee:

I am Robert Kinnard. I started pulling tensile tests for Carnegie-Illinois at the Irvin plant about May, 1942. Mr. Connell and Mr. Ireland instructed me to "pull up" tensile tests. "Pull up" means to increase the tensile value above their actual value. They repeated this ever so often. To keep my job I followed instructions. We kept ringers on the lower shelf of the table used when the proper test could not be found. Around August I measured the elongation of a test piece wrong and Tom Reed, a Navy inspector, measured it again and found a different value. As a result, I was taken off tensile testing. About December or January I was put back on tensile testing and then began to pull the tests correctly. After I was put back, nobody approached me directly, but they intimated I should again falsify the values. Mr. Ireland seemed displeased when I failed to "pull up" the values. Mr. McGarrity approached me and asked me how many more tests were going bad. He seemed very worried. When I went back on the job my rejections were a lot more numerous than before. Mr. Tarella (Michael Tarella, general foreman) approached me and asked me to consider if I would pull the values up not more than 2,000 pounds. I refused.

By now, of course, Kinnard is out, and looking for work, while the men who drove him to make the dishonest tests are being covered from wrath, as far as that is possible in a case of this kind. That the responsibility for this bad steel reached upward beyond the chief metallurgist of the company is apparent from the following which appeared in the New York *Weekly People* of April 3:

"In November, 1942," said the supervisor of inspection for Carnegie-Steel, "I referred this matter [shipment for war purposes of poor steel] to W. F. McGarrity [the chief metallurgist] and was instructed to reject all the

bad plates. Two days later John McConnell [sheet mill metallurgist] told me that McGarrity 'got his ears beat back' when he brought the subject up in an operating meeting [of higher executives] and I was instructed to go easy on rejections."

Another bad baby was laid on the Steel Trust's doorstep by Andrew Jackson Higgins. That gentleman was to have built ships in New Orleans, but, so he says, the big steel companies did not want him to have the necessary steel wherewith to build his plant. Higgins then went on to say that if the government would give him the "Go" signal he could get all the steel he needed, because the same steel mills that would not let him have steel direct had loaded the warehouses to the rafters and when orders were placed with the "bootleggers" at their warehouses, at the higher prices, deliveries were made at once. The president is alleged to have said concerning these Higgins charges that if the big steel men were doing this kind of business (loading up the warehouses so as to get fancy prices, and withholding and delaying shipments of the big lots needed for ship construction) then they ought to go to jail.

Kind reader, do not get all heated up with fear that any of the big men in the Steel Trust are in any danger of jail. They are as safe as that corporation owner, a maker of airplane parts, mentioned by Secretary of the Treasury Morgenthau, who hired himself as sales representative at a compensation of $1,656,000 (some salary, that) to cut down his corporation's income tax.

Uncle Sam Is in Business Too

Uncle Sam is in business himself now, and in a big way. Private industry in 1939 had a plant investment of $21,500,000,000, but Uncle Sam's own new industrial plant some time back was almost half that amount. The two kinds of plants, government and private, are getting results, too. Production is increasing by leaps and bounds, and a steady stream of airplanes, ships, tanks and ordnance is pouring forth to the many fronts where American boys and their friends are on the firing lines.

The first $77,516,392,000 in war contracts was placed about where one would have expected it to go. Naturally the big industrial states got most of the business. Those getting from around $7,000,000,000 down to about $2,000,000,000 were, in the order named, Michigan, New York, California, Ohio, Pennsylvania, New Jersey, Connecticut, Illinois, Indiana, Texas, Washington, Kansas. Those getting from around $2,000,000,000 down to about $1,000,000,000 were, in the order named, Massachusetts, Maryland, Wisconsin, Missouri, Virginia, Alabama. Contracts for more than $100,000,000 went to Louisiana, Tennessee, Minnesota, Florida, Georgia, Oregon, North Carolina, Oklahoma, Maine, Colorado, Rhode Island, Iowa, Nebraska, Utah, Mississippi, West Virginia, Arkansas, Kentucky, South Carolina, Delaware, Arizona. The smallest orders went to the least populous states, grading down from New Hampshire to Nevada, New Mexico, the District of Columbia, Vermont, Idaho, South Dakota, Montana, and Wyoming. Last on the list was North Dakota, which was given only $270,000 as against its nearest competitor, Wyoming, with $25,074,000.

The Subsidized Sugar Famine

When it comes to managing a business backwards the politicians are as much worse than the Big Business crowd as they are better than the religious frauds. The sugar story illustrates this. For not producing sugar the politicians paid the following sums to the parties named: Luce & Company, Puerto Rico, $614,643; Fajardo Growers, Puerto Rico, $528,839; Oahu Sugar Company, Hawaii, $510,062; United States Sugar Corporation, Florida, $470,007; Eastern Associates, Puerto Rico, $447,959; Waialua Agriculture Company, Hawaii, $444,225; Ewa Plantation Company, Hawaii, $443,021. This

was supposed to produce a sugar famine, but the good Lord planned it otherwise. The politicians said there would be a crop in 1942 of 5,300,000 tons, but the actual crop was 8,500,000 tons; so, despite the above-named and other "not producers", there was so much sugar that nobody except the politicians knew what to do with it.

At the very time that housewives in the north were begging the politicians for enough sugar to do up their canned fruit for the season the Imperial sugar refinery at Sugar Land, Texas, had so much sugar (20,000,000 pounds) in its warehouse that it had to close down. Two other warehouses at Houston were in the same predicament. The United Fresh Fruit and Vegetable Association claims that in 1942 millions of dollars' worth of berries and other perishable fruits rotted because of the foolish restrictions imposed, supposedly, because of the sugar famine subsidies that had been levied. While Americans were allowed 5 pounds of sugar to can a bushel of peaches, Canadians were allowed 25 pounds for the same purpose.

The Rubber Muddle

The rubber muddle was another sample of how the politicians can take a problem that is relatively simple and waste a year doing next to nothing. Rubber is made of styrene liquid and butadiene gas. The styrene liquid comes from either coal or petroleum, and there is no problem in producing it by the shipload. The butadiene gas can be obtained either from ordinary 190 proof industrial alcohol in one single step or from petroleum by a complicated process in plants which will take 18 months to build and get into operation.

Fulton Lewis, Jr., who made a study of this subject for *The Progressive*, saw synthetic rubber being made in Philadelphia. He met capitalists and engineers ready and anxious to make it on a huge scale, but they were told by Frazier Moffatt, who is at one and the same time a government rubber official and an official of an industrial alcohol corporation, that he would not approve the project of making it. *One wonders why.* Lewis did a good job. He quotes Senator Guy Gillette, Iowa Democrat, as having said:

> It is undisputed in the record that the only known and commercially tested processes for the production of synthetic rubber, developed principally in continental Europe by the Germans, Poles, and Russians, were from alcohol produced from grain and potatoes. There is no explanation by any responsible officials as to why this country, in setting up a program for the production of synthetic rubber, gave consideration only to untried laboratory experiments from petroleum, which will require twice the time and many times the critical material needed to produce the same synthetic rubber from alcohol. The only plausible explanation seems to be that the $1-a-year men in the Chemicals Branch of the War Production Board were fearful that the war might end suddenly, and that there might then be some surplus industrial alcohol that would provide competition for companies with which many of these officials had been associated for a long period of time.

Frazier Moffatt might be able to explain all this, and if he can do so he should; and if he cannot, he should *resign*.

Why All the Tenderness?

One cannot help but wonder at all the tenderness which the politicians that have public money to spend (in the tens of millions of dollars) show toward concerns that have so frequently been up for action by the Department of Justice or by the court of public opinion. The Aluminum Trust is such a concern, and the new and different newspaper *PM* broke the news in its issue of March 22, 1943, that Jesse Jones loaned this outfit $68,500,000 without interest, to build a plant in Canada, while construction of new public power projects in the United States was being stopped by War Production Board priority orders.

In an article entitled "The Force

Behind the Nazis", Francis Aldham, in the Vancouver *Daily Province*, shows that one of the main backers of Hitler is the great dye industry of Germany, commonly known all over the world by the abbreviation "I. G. Farben". A few paragraphs cite some essential facts:

They (I. G. Farben) reached out and dominated the whole business world. Their hand was, and continued to be until a few months ago, felt in every branch of industry.

They begged, borrowed and stole patents. They falsified formulas so that when their associates in other lands tried to manufacture according to "know-hows" for which they had paid so much in money and in the curtailment of business honor, processes went wrong and workmen died in the attempt. Tens of thousands of Allied soldiers, it is estimated, died from the effects of phony salvarsan, when non-Germans tried to make it from formulas supplied before the war by I. G.

With cool disregard for the law of libel, the authors [of the book *Germany's Master Plan*] name firms and individuals in Britain and the United States who were more loyal to I. G. than they were to their own nations, during the last war and at the outset of this war. Agreements provided that the moieties of this world cartel should continue to do this, and that until the war was over. Thus Du Pont in America and Mitsui in Japan were, in effect, pledged to work against Britain when this war began.

The authors think that Hitler struck too soon; that the sinister work of I. G. in restricting output in non-Axis countries was incomplete, as witnessed by the swift recovery which industry in the United Nations has made under the spur of war. They think that Germany's master plan for world domination through production can be shattered for ever, provided "Big Business" in the United Nations is not allowed to go back to cartel.

What Is the Answer?

What is the answer to the question propounded at the opening of this article? It will be remembered that the president of the City National Bank of Fort Smith, Ark., raised the query "Whom can you trust now?" He thought that the shameful record of the Du Ponts, the Public Utilities, the Standard Oil Company and the Aluminum corporations and others made it appear that the world is coming to an end. He had a correct thought. The world, *Satan's* world, has legally *ended*. Mr. Nakdimen does not realize that "the earth abideth for ever" (Ecclesiastes 1:4) and that *Satan's* world, now in its death throes, is to be followed by 'THE NEW WORLD WHEREIN DWELLETH RIGHTEOUSNESS'. He should get the book *The New World*, read it and study it, Bible in hand. When he does so, if his heart is right with God, he will find the full answer to his question. He can trust the One that Jehovah God trusts and whom He has appointed to take full charge of all earth's affairs, that is, Christ Jesus. There is no other place to look for security, rest, hope and peace, and the promised blessings of everlasting life here on earth under perfect conditions. Armageddon intervenes, it is true, but when it is over and gone the joy of every honest heart will have come.

Victory (?) in Norway

THE Nazis are so sure (?) of their victory that Norwegian postage stamps now bear the British "V", which the Nazis cribbed for their own use as soon as those friendly to Britain began using it in countries under Nazi control. Everything goes in wartime; so if the Germans can make use of a British idea and get away with it, Mars is well satisfied. In some parts of Norway only Quislingists are now permitted to have radio sets. That does not look much like confidence in ultimate victory, but more like an act of desperation to prevent the Norwegians from knowing what is going on in the world, and hoping for deliverance.

Europe's Religious Thugs

IN HITLER'S Europe those who rule the people religiously, and those who rule the people politically, and those who supply the armaments of war happen to be one united group of men. The religious element gained political ground by promoting the dictators; and through the dictators the armaments kings promoted war; and the German military generals happening to be part and parcel with the industrial magnates, war not only opened up their munitions markets and put their armies into action, but swept all together, the military, industrial and religio-political elements, into tremendous power behind the backs of their stooges the dictators.

Mussolini and Hitler each organized gangs of fancy-shirted toughs and started the same brand of thuggery in Italy and Germany that was initiated in America when two Chicago newspapers hired gun-slinging killers to fight circulation wars for them. As Big business leaders in America hire gangsters to lead-poison labor unions, for the same reason Big Business in Europe hired the services of Mussolini and Hitler. But Al Capone wound up differently in America from the way Mussolini and Hitler wound up in Europe. Why? Principally because Big Religion in Europe came to the side of Big Business and adopted these plug-ugly murderers for her own children and made full-fledged dictators out of them, to be employed thereafter as "the sword of the Church" in returning the continent to the folds of "Catholic socialism".

Reminds *In Fact:*

It is a historical fact that when the Italian Confederation of Labor told Mussolini it could not use his Blackshirts for seizing Rome he went to the Lega Industriale, the Associazione fra Industriali Metallurgici ed Affini and the Confederazione Generale dell'Industria. It is a historic fact that the Nat'l German Employers Ass'n, the Nat'l Federation of German Industry, the Nat'l Chamber of Commerce and the Herrenklub subsidized and paid for Hitlerism. Translated into their nearest equivalent in America, these elements are: our Nat'l Ass'n of Manufacturers, the U. S. Chamber of Commerce, the Associated Industries, and the Associated Farmers.

By smashing the Socialist and Popular parties and destroying labor unions, Mussolini did in Italy what Hitler has done for the financial-clerical elements in Germany and the rest of Europe. In 1929 the pope at Vatican City negotiated his religious and political working agreement with Mussolini, accepting also, besides 750 million lire to be collected directly off the Italian people, one billion lire worth of 5-percent negotiable Italian State bonds, which not only represents one of the biggest investments in Italian Fascism on the books, but is good only so long as Mussolini's Italy hangs together.—*Financial Agreement Between the Holy See and Italy,* page 14.

If not the Roman Catholic Hierarchy with its big money principal of the flock, then *who* is the power behind Mussolini, the murderer of Ethiopia, Albania, Greece, not to mention Spain?

Meanwhile in 1929, after his monkey-shines in the Munich beer hall putsch, Hitler received his first thug-money from Fritz Thyssen, who admits having called together leaders of industry and banking and telling them to employ Hitler to make Germany safe for excess profits, as well as for Thyssen's "Church", the Roman religion. In 1932, when Hindenburg and the Prussian landlords became involved in a scandalous fraud over taxes and land subsidies, Hitler offered to suppress the whole mess in return for power. The most powerful political and commercial elements in Germany at that time were organized under the Right wing of the Catholic Centre Party, which party, manipulated

by Catholic von Papen and papal nuncio Pacelli, now pope Pius XII, made the deal by which von Hindenburg was enabled to cover up his own fraudulent corruption in appointing Hitler as chancellor. Within six months from that time this common thug and killer made his working agreement, or concordat, with the pope just as Mussolini had made his four years previously. Has not Adolf Hitler by his course of action proved openly that it was these elements that promoted, subsidized and established him in power as the Nazi dictator?

His rise to power had been popular with a lot of people because he had promised the middle and lower classes of Germany the preference in all government jobs, abolition of interest on loans, and that he would break the power of the trusts and cartels and divide up the department stores. Each of these points, if carried out, would have spelled doom for Big Business as well as for a plunderous priestcraft, and might have led to anything in Germany from a liberal Socialist republic to Communism. But these promises were, like everything else that Hitler ever promised them, the fruit of his Jesuit training, lies designed to get control of the people.

As soon as the big industrialists and bankers and the Roman Catholic Hierarchy gave the word, Hitler and his whole gang of Nazis did not hesitate. They instantly annihilated freedom of speech, press and worship (but not freedom of religion), throwing Jehovah's witnesses to the firing squads and concentration camps to the "Bravos!" of the Hierarchy. (*The German Way,* May 29, 1938) At the same time Hitler, Goering and Hess issued sharp reprimands against "attacks on business". Hess quelled all activities against department stores.

By August of 1933 the high hopes of the little people were fully blasted, the middle-class leaders were served a similar fate with Jehovah's witnesses, while the Fighting League of the Middle Class was simply slaughtered in warm blo
The turnover tax on Big Business
then reduced ½ percent on all comm
ties, while for Little Business it
raised 2 percent. Hitler shattered G
many's precarious ceiling prices,
Big Business raised its prices to ma
its greed. Two years before the demon
broke loose upon the world thousands
small business men, no longer able
get prices for their products that wo
keep them alive, were liquidated; a
the total mobilization now taking pl
in Germany is simply a cleaning up
whatever might be left of small, in
pendent enterprises, so that no one ow
any kind of business in Germany
speak of except the princes of Big Bu
ness that bought and paid for Hit
from the start. Extend this same sit
tion all over the continent of Euro
where even worse things have happen
to the middle and lower classes in eve
country. Add to that the land situati

Hitler's greatest bait from the beg
ning was the promise to give the G
man masses bigger land grants, or mo
"living space". The space these Germa
lived on before Hitler was greater th
what they have to call their own no
the addition to Germany of all Euro
and a huge slab of Asia notwithstandi

Ten thousand persons own Euro
today, practically all the land as w
as the industries. Germany being
nation of 80 million people, that mea
that under National Socialism only o
person out of about 8,000 has any voi
even in Germany. Soviet Russia's 2 m
lion Communists rule an empire of 1
million, giving the say-so to one pers
out of about ninety. The chances
being a somebody appear to be almo
ninety times better in Communist Ru
sia than in Nazi Germany!

But, of course, as all the bishops
Fulda will tell you, in Germany the
is the blessed privilege of private owne
ship. Three thousand Germans own 6
million acres of tillable land amo
them. Four hundred and fifty men ow

1,235,000 acres apiece, or, all put together, these 450 men own 40 percent of all land under cultivation in Germany. One million German peasants subsist on the same amount of land owned by 412 Junkers. Three million families, 60 percent of all those occupied in agriculture in Germany, own on an average about 4 acres per family. They cannot dispose of what they grow on these rabbit patches, but even before the war each farmer had to deliver all grain, milk, eggs, and cattle ready for slaughter, at prices lower than those he was formerly able to obtain. This is the kind of "living-space" that Hitler has won for his people. But this picture of Germany serves only as an example of what has happened elsewhere in Europe.

Then who has gained from Hitler's rise and conquests? Except for a cantankerous Thyssen here and there who had to be discarded, the money lords and warlords of Europe who subsidized Nazism have gained the most monstrous amount of wealth and power ever accumulated by one clique in history.

As for the Hierarchy that made its working agreement with the chief thug of modern times, what has it gained? Germany was predominantly Protestant, with a minority of 20 million Catholics when Pacelli maneuvered Hitler into power; today Greater Germany has 48 million Catholics, which makes it predominantly Catholic. That is one thing. But here is more. The pope at Vatican City now has under him a Catholic on every throne in Europe, such as was Mussolini in Italy, and as are Franco in Spain, Petain in France, Salazar in Portugal, and so on. Never in the heyday of the "Holy Roman Empire" dark ages was the Roman Catholic religious system more powerful and domineering on the continent than today, thanks to Adolf Hitler.

The Darling of the Warlords

When ordinary bank robbing was in style, six thugs were enough to pull off the holdup: one sat in the car and kept the motor running; two watched the streets; two went inside to shoot down the cashier and a few bystanders, while the sixth, the nimblest-fingered bandit, looted the safe and money box. But now, instead of an automobile, give the bandits a religious Hierarchy to whisk them away in the skirts of religion, multiply their numbers a few million times, march 100,000 of them together with 18,000 special beat-up men (Gestapo) into a country like Austria and pull a real job. That is exactly what Hitlerism means: thuggery on a totalitarian scale.

According to *The Economics of Barbarism,* "Very soon after they came to power, leading National Socialists became members of the directories of the big companies, while the chief industrial capitalists became members of the state administration." As for the Prussian warlords, they were already part and parcel with the financial trusts, so that all together they went, happy as bandits could be, into a dozen Austrias, in the most outlandish yet scientific thugging expeditions ever staged. The leaders of the Nazi war machine are the watchdogs and bloodhounds. The German trusts, of which the warlords are a part, do the robbing and looting. In this manner they have seized more than the entire continent of Europe, and the problem of getting it back out of their hands is not to be mentioned in the same breath with the relatively childish task of getting back the loot from a handful of bank robbers.

The Prussian generals, or Junkers, have made superb and thoroughly scientific improvements on the game they played in World War I. In 1914 they backed the kaiser, grew rich out of the war, and survived intact after the kaiser went down. Now they back Hitler, grow far richer out of World War II, and have astonishingly good reasons to expect to survive even more securely after the fuehrer goes down.

As leaders in the big trusts that work hand in hand with Hitler and which have increased in wealth and power immeasurably since 1933, the German warlords have become so solidly entrenched in the political and industrial world that not even the disaster of a military defeat, no, nor even the loss of personal glory, seems to affect their position. An example of this has already been witnessed in the case of Field Marshal Walter von Reichenau, who "died" out of the military picture back in 1941 when he could not pour enough Germans over piles of his own dead to take Rostov. What of that?—only a nasty lot of human blood spilt. But as for money, which is all that matters, Walter was and, of course, still is well supplied. He inherited an abundance of it from his old man, who was an executive and director of the Rheinmetall-Werke.

Von Waldegg and Son-in-Law

Then there is Admiral Heusinger von Waldegg, a director of Krupps' Germania shipyard in Kiel. Who is going to take apart the Krupp empire from under men like von Waldegg when this war ends? Von Waldegg's son-in-law, by the way, winds a crank in Goebbels' lie-factory which "inspires" the German people to keep shooting away to win the war to win the world, after which they will settle down in their "living spaces" to be royally served by all the "lesser" races of humankind.

General Thomas, head of the Military Economic Staff, sits on the board of Rheinmetall side by side with Catholics Kloeckner and Bosch of I. G. Farben, Strauss of the Deutsche Bank, and other influential bankers, all of whom are 'heaping treasure together for the last days' while heaping is good. Also on the Military Economic Staff is General von Hannekan, who expects to live long like a prince after Hitler is gone, by reason of having gotten himself appointed director of a number of firms outside Germany, seized in some of Hi ler's robber-raids across the earth.

Of course, we remember the gallant of cavaliers Benito and Adolf, wi crusaded to the aid of Franco in Spa where they destroyed "Bolshevism" a turned Spain backwards into the tend mercies of Catholic Socialism. The R man Catholic Hierarchy's official accou of this teamwork is detailed in t N.C.W.C. pamphlet *Insurrection Spain*. General Quarlimont had charge "Saint" Adolf's Nazi forces in Spain. O reason why the Spanish Republic was teetotally murdered can be laid at t feet of Quarlimont. His brother is director in a number of firms, but, abo all, in the Metallgesellschaft A G, a su sidiary of I. G. Farben, which holds e tensive interests in Spain. Had not Ge eral Quarlimont done a bang-up job silencing a pestiferous Spanish citizen who wanted to enforce constitution laws against foreign cartels that we sucking Spain's lifeblood out of h Quarlimont's brother, along with certa gentlemen from Britain, would have l much business in Spain.

Otto Stuelpnagel, commander Paris, has a brother Joe who draws di dends from the enormous German Cel lose Trust, and personally owns one Germany's wealthiest and most inf ential newspapers. Besides all this, J Stuelpnagel controls (or did once) t Kexhold Works of the Waldhof Combi on Lake Ladoga as well as the Proco firm of Viborg. As a result of the Sovi Finnish peace treaty of 1940, both the concerns came under Soviet manag ment. But as one system of totalitaria ism has proved to be about as efficie as another when it comes to operati war factories, Stuelpnagel should worry about the welfare of any busine of his that Stalin takes over.

A Nazi Once Told the Truth!

General Ritter von Leeb draws dividends as a director in the Goeri Trust, which is within itself a "gre

tree" spreading branches in every strial section of Europe and, no t, beyond. Air Marshal Goering's is most magnificent industrial empire xistence. Founded in 1937 with a tal of 5,000,000 marks for the exploi- n of low-grade ores in Germany, Hermann Goering Works increased scope so rapidly that in one year multiplied their capital to 400,- 00 marks. Goering boasted to Balbo taly that the Works were destined come "the greatest industrial enter- e in the world". Though it sounded a whopper, for once a Nazi must told the truth. The Goering com- controls the chief ore, iron, steel oil industries in Austria; the Skoda s and the Brno armaments works iron, steel and manufacturing ts in Czechoslovakia; the French eider-Creuzot works; the Sudeten- an mines; as well as 80 percent of steel production and 50 percent of locomotive production of Rumania; to mention Belgium's Koenigs and rahuette mines; nor the De Wendel resources in Lorraine and Luxem- . Nor is this all. Hermann Goering onally is the largest private owner orest lands in the world.

ow easy would it be, or how desir- to this world in general, to dissolve the 250 financial organizations which Senator O'Mahoney's *TNEC Report* exposes as owning and controlling the United States? Much harder would it be to dissolve their counterparts, the financial trusts in Europe, which are even stronger and more powerfully entrenched in the political and military elements of this world than Rockefeller's Standard Oil, ALCOA, or Ford. These elements under Nazism have transformed in an appalling manner the face of Europe, as Communism transformed the face of Asia. And as long as European economics remain in the hands of totalitarian warlords and trusts, they will continue to produce a military machine that holds the earth in terror. But let the Nazi economic setup be suddenly disorganized with Hitler's military defeat, for example, and all Europe will be plunged into a nightmare of famine, disorder, and the maddest confusion that ever a continent experienced. Not that the peoples of Europe should or could endure much longer the oppression of this frightful system; yet so diabolical is the scheme which scientific thuggery has put across that no matter if Hitler personally is liquidated, the men behind him fear no earthly powers that might soon dislodge them from their entrenched position.—M. C., Tennessee.

Nicotine Wanted

CE upon a time nicotine was liter- lly a drug on the market. Now there estimated shortage of 300,000 ds. The reason is an unprecedented nd for nicotinic acid, a "B" vitamin d to fortify white flour. M. J. Cop- . K. Eskew, and J. J. Willaman of nited States Eastern Regional Re- h Laboratory, Philadelphia, have taken research to find more ex- d industrial uses for tobacco. Until ly the million pounds of nicotine recovered annually in this country were used in insecticides. Now new and more efficient nicotine insecticides are sought to replace derris and pyrethrum. A jump from 10,000 pounds of nicotinic acid produced in 1940 for the treatment of pellagra to an estimated 300,000 pounds for flour fortification this year has used up supplies of nicotine, the best known material for making nicotinic acid.—New York *Times*.

"THY WORD IS TRUTH"
—John 17:17

The Mysterious Deliverer

MOVED by the holy spirit of God operating upon their minds, the holy prophets of Jehovah God testified of the coming of the great Deliverer, foretold by Jehovah God himself in the garden of Eden before fallen man's expulsion therefrom. The prophets prophesied both of the Deliverer's sufferings and of His glory that would follow; but they did not understand the meaning of their own prophecies. (See 1 Peter 1:11, 12.) Hence the matter was a mystery or divinely-kept secret to them. Even the angels of heaven desired to look into these things, but were not permitted to understand. God's purpose was to keep the matter hidden in secrecy until His own due time to reveal the great truth.

Then came Jesus, whose coming was announced shortly beforehand by John the Baptist; and He was pointed out as the one who would take away the sin of the world. Jesus chose His disciples and they walked with Him. And He taught them for three and a half years; but they did not understand the great mystery. They expected Jesus to be made an earthly king and hoped that they might be with Him in the kingdom, probably in His official cabinet, because the mother of James and John asked if one son might sit on His left and the other on His right hand in the kingdom. When He was put to death they were greatly disappointed, mystified, and in great distress.

Even after His resurrection the faithful apostles did not understand His mission, and this is shown by their words to Him on the day that He ascended to heaven. Acts 1:6-9 reads: "When they therefore were come together, they asked of him, saying, Lord, wilt thou at this time restore again the kingdom to Israel? And he said unto them, It is not for you to know the times or the seasons, which the Father hath put in his own power. But ye shall receive power, after that the holy [spirit] is come upon you: and ye shall be witnesses unto me both in Jerusalem, and in all Judæa, and in Samaria, and unto the uttermost part of the earth. And when he had spoken these things, while they beheld, he was taken up; and a cloud received him out of their sight."

In obedience to Jesus' command, the faithful disciples went to Jerusalem to the place known as the "upper room", and there waited. Ten days passed, and then it was that the holy spirit, the invisible force from God, was visited upon them, and, true to Jesus' promise, the disciples began to understand that He must be King at God's right hand.

Jesus had now ascended on high and presented the merit of His sacrifice before Jehovah. The acceptance of this was manifested by the pouring out of the holy spirit upon His disciples who had been His consecrated followers for three and a half years. Doubtless the angels of heaven now began to know something about the great mystery. What joy must have been in heaven when Jesus Christ appeared before the Father and presented the merit of His sacrifice and was received by Jehovah! Surely the heavenly host must have sung loud praises. They had beheld Him triumphing over death and the grave and had now exalted to a position in heaven next to the Father. It must have been a great joy to the heavenly host, even as Jesus himself the contemplation of it had been a great joy: "Who for the joy that was set before him, endured the cross, despising the shame, and is set down at the right hand of the throne of God." (Hebrews 12:2) What joy must have filled the hearts of His disciples when they began to understand the

of God and to see how wonderfully
ad led them and their fathers before
, preparing them now for the reve-
n of this great truth!
due time Saul of Tarsus, who be-
Paul the apostle, was illuminated
nderstood. Then he wrote: "Who
rejoice in my sufferings for you,
ill up that which is behind of the
ions of Christ in my flesh for his
s sake, which is the church: where-
am made a minister, according to
ispensation of God which is given to
or you, to fulfil the word of God;
the mystery which hath been hid
ages and from generations, but
is made manifest to his saints: to
n God would make known what is
iches of the glory of this mystery
g the Gentiles; which [mystery]
rist in you, the hope of glory."
, at Colossians 1: 24-27, the apostle
asizes the fact that this mystery of
is now made known only to the
s. The term "saints" means "puri-
ones", which purification comes
gh receiving the merit of Christ's
ice and devoting themselves wholly
e interests of God's kingdom.
e word "Christ" signifies "anointed
Anointing means designation to
l position in God's royal organiza-
and such anointing is, not with
l oil as in the case of Israel's
s and kings of old, but with the
spirit of God. Christ Jesus is the
ment or channel of God for the
ng of believing humankind; and
rst ones to receive the blessings
gh Him are the members of His
or church. (Acts 3: 25, 26; Gala-
3: 8, 9) All thereof being Anointed,
Christ is composed of Jesus, the
and mighty Head, and the 144,000
ers of His body. (Revelation
14: 1, 3) Christ Jesus is the head,
he church is His body. It is not
al to speak of a body of men with
eral at their head. Just so, the
e says of The Christ: "And he
t Jesus] is before all things, and
by him all things consist. And he is the head of the body, the church: who is the beginning, the firstborn from the dead; that in all things he might have the pre-eminence. For it pleased the Father that in him should all fulness dwell."—Colossians 1: 17-19.

The apostle Paul thus uses a human body to illustrate The Christ, the great mystery class; the Head representing Jesus, and the other members of that organized body representing those who are of His church. "For as the body is one, and hath many members, and all the members of that one body, being many, are one body: so also is Christ. Now ye are the body of Christ, and members in particular."—1 Corinthians 12: 12, 27.

Christ Jesus is designated in the Scriptures as "the seed of Abraham" according to God's promise. "Now to Abraham and his seed were the promises made. He saith not, And to seeds, as of many; but as of one, And to thy seed, which is Christ." (Galatians 3: 16) Then showing how the members of the church are adopted by Jehovah God as sons and given to Christ Jesus and thus made a part of the "seed of Abraham", the apostle addresses himself to the church of God, the followers of Christ Jesus, and says: "For ye are all the children of God by faith in Christ Jesus. For as many of you as have been baptized into Christ have put on Christ. And if ye be Christ's, then are ye Abraham's seed, and heirs according to the promise." (Galatians 3: 26, 27, 29) Thus Christ Jesus is primarily "the seed of Abraham", and the members of his church are associates with him and are adopted as part of the seed. *Church* means those called out to an assembly unto God; and so the period from Jesus' first coming down till His second coming and destruction of the Devil's cursed organization is the period employed by Jehovah God for the selection of the members of the church who are associated with Christ Jesus in the Kingdom

A MAJOR difference between the present war and the previous World War is to be found in the diametrically opposite sets of ideas that motivate the two warring camps today, a condition which did not exist in the previous war. In the beginning of the First World War, the same social economic system known as capitalism existed in all the belligerent countries. None of them had in the beginning of the war a consciousness of any need to change the social or political system. True, later, Wilson's Fourteen Points introduced a new idealism into the camp of the Allies, especially because of the hope which they held out for the liberation of subdued nationalities, in advocating the principle of self-determination. Still, both sides were fighting essentially for possessions and influence, and not for a new social world order.

In the present war, however, we have three different groups of countries, two of which are lined up in self-defense against the third, the aggressor. Communist Russia, ruled by a dictatorship, is allied with the democracies, fighting together against Fascism and the Fascist way of life as represented by the Axis partners, Germany, Italy and Japan. The present war has been characterized by President Roosevelt as "a war for survival" because Fascism, to use the all-inclusive term for both Fascism and Nazism, is a social revolution of crude force and coercion intent on stamping out any way of life which denies the absolutism of the State, and concedes the principles of human equality and freedom, even in theory. It is a revolution that knows no limitations of geography or moral restraint.

True, democracy, as we know it, and communist dictatorship, signify different economic and political systems, but they at least share certain basic values and outlooks in common. Indeed, many freedoms have been denied or curtailed in the Soviet Union, but the fact remains that Communist Russia has been striving in its own way to raise the level of education and security of all the people dwelling within its borders. For Communism, at least in theory, accepts human equality as a basic principle of conduct. The Soviet Union is the one country in the world where anti-Semitism and all racial discrimination have been officially outlawed. Moreover, the Communists, unlike the Nazis, do not accept dictatorship as the ideal form of government; they consider it as a transitional stage on the road to Socialism. For these reasons, it is sincerely hoped by many, that the present comradeship-in-arms between Russia and the other members of the United Nations will lead to genuine co-operation between the democracies and the U.S.S.R. along lines specified in the Four Freedoms.

The Fascist Axis—A New Kind of Adversary

Fascism, on the other hand, is a complete repudiation of the democratic way of life based on freedom, and of the very assumptions of any equality of rights by individuals or groups, whether racial, national, religious or cultural. Fascism repudiates the ideals of human freedom, equality and brotherhood as undesirable. Instead, it preaches the doctrine of racial superiority, Germany and Japan each claiming to be the "master race" destined to conquer and subjugate the rest of the world. (Their seeming alliance in this war is merely a temporary marriage of convenience.) Fascism glorifies war as an end in itself and declares brutality and ruthlessness to be the distinguishing mark of the *Herrenvolk* or "master race", in its dealing with the other so-called "inferior races".

Moreover, a "master race" need have no conscience. Lying propaganda, Hitler wrote in his book, *Mein Kampf*, is a legitimate device, provided it serves Nazi ends. Nothing under Nazism is

right or wrong, save as it serves the Nazi drive for power. At first Hitler claimed that he only wanted to avenge the wrongs of the Versailles Treaty, and to have all territory populated by Germans made part of Germany. In addition, he was going to save the world from the "communist menace" and from "Jewish domination", the twin bogies in his arsenal of propaganda. He made one treaty after another and gave one promise after another, only to break each and every one of them with contemptuous scorn when it suited his purpose. He not only violated his non-aggression pacts with neighboring countries, but after each act of aggression and aggrandizement he brazenly lied to the world, declaring that his newly-annexed stretch of land was his "last territorial demand" in Europe. The democracies, unfortunately, acquiesced in Hitler's repeated aggressions, even as they had failed to take action against his barbarous treatment of the Jews. As a result, Hitler's strength and appetite increased with each easy victory until armed self-defense against his continued acts of aggression became inevitable.

For instead of being satisfied with restoring Germany's "lost provinces", Hitler continued to demand *Lebensraum*, or "living space", at the expense of others and for the exclusive use of the German "master race". In fact, he claimed the right to the entire planet for the so-called "racially superior Aryan" Germans to dominate and exploit.

When he finally succeeded in embroiling most of the nations of the world in what became for them a war of self-defense and survival, Hitler, of course, blamed the Jews for the war, even as he had blamed them for everything else in the past. Following the Nazi-Soviet Pact, Hitler discontinued attacking Communist Russia and Communism, and concentrated instead on denouncing what he termed the Anglo-Saxon democratic "plutocracies". But when, in June, 1941, in violation of his non-aggression pact with the Soviet Union, he invaded that country, he announced to the world that he was taking steps against the "plot devised by the Jewish Anglo-Saxon warmongers and the Jewish rulers of the Bolshevist center in Moscow".

It should be noted that the present war, which Hitler initiated, is equally the result of the mentality, preparation and will for conquest, of a majority of the Nazi-indoctrinated German people. In this respect the present war is different from the First World War, which was largely precipitated by the Austro-Hungarian and German kaisers and their camarillas of war lords. An index of the new German mentality can be seen in the cruel and ruthless behavior of the invading Nazi hordes as compared with the relatively civilized conduct of the German armies in the previous war. The German soldiers of today are conscious followers of, and zealous warriors for, Hitler's concept of German world domination. They display the same blind fanaticism and crusading spirit as do the Japanese in the service of their own idolized emperor and his war lords.

A Global and Total War—A New Kind of War

And so today we are engaged in a global and total war testing whether the fascist or anti-fascist and democratic way of life shall prevail. It is a "global war" because, unlike the First World War, it is being fought on every continent and every ocean. And it is a "total war" in that, more than ever before, the battles are fought not merely by uniformed armies but also by civilians behind the lines and by the competing propaganda of words and ideas, including the hate-inciting propaganda of dissension spread by treacherous fifth columnists. It is a total war also in that the fate of the whole world is at stake. No longer are national boundaries and foreign markets the decisive issues. The crucial issue of this most terrible of all wars is whether the people of the world

shall have the opportunity to live a life of their own choosing in freedom, or whether they shall be denied that elementary right and be governed by the dictates of self-styled "master races".

The Jewish Stake in This War

To Jews, however, the war is even of graver import than as a struggle between slavery and freedom. For were the United Nations to lose the war, it would mean the destruction of Jews everywhere, since they would not be allowed by the Nazi victors to live even as slaves. The suggestion of Alfred Rosenberg, the Nazi philosopher, that a "Jewish reservation" be established by the Nazis at Madagascar (or some other inhospitable and outlandish place), should be considered in the light of past Nazi profession and performance, as another piece of deception calculated to impress the simple and naive with an example of Nazi "humaneness" and thereby mislead them in regard to real Nazi intentions. The fact is that, should the Nazis win the war, other peoples would be allowed to live, albeit as slaves, but Jews would be exterminated. This has been the fiendish boast and promise of the Nazis from the very beginning of their career, and to date this policy has been pursued methodically. Wherever Nazism has penetrated through military conquest or otherwise, Jews have been cruelly murdered en masse.

Anti-Semitism in the First World War

The situation is markedly different from that which prevailed during the First World War when anti-Jewish prejudice existed, to a greater or lesser degree, in virtually all the countries engaged in the conflict. Anti-Semitism or anti-Jewish prejudice in action did not exist in the U.S.A., Britain, France, Italy, Belgium, Holland and the Scandinavian countries. In Germany and Austria-Hungary, anti-Jewish prejudice was still being exploited as an instrument of reactionary political propaganda. Though it was potentially a great fo it was far from becoming official gove ment policy with a mass base among people, as has been the case with Nazi Except for the legal proscriptions wh had already existed against the Jew Czarist Russia and Rumania before war, there were no special laws of crimination directed against the J anywhere else in Europe. Before during the First World War, anti-J ish prejudice and its active form a Semitism were held in disrepute in New World and in the whole of Eur outside of Russia and Rumania. brutal persecution of the Jews by Czarist government was the cause great deal of embarrassment to Allies; it prevented many liberals their countries from giving wholehear support to the war. In fact, the Ma 1917 revolution, which abolished Czar in Russia, granting as it did equality all, was a tremendous moral asset to Allied Powers, who were then able unite on liberal war aims, especially those epitomized in Wilson's slogan t the war was being fought to "make world safe for democracy".

Democracy's Failure to Gauge the Nazi Threat

During the past decade, however, world has been treated to the unseem spectacle of a powerful government liberately singling out a defense minority, the Jews, as the alleged a enemy of the German Reich and of m kind in general, deserving extinct The democratic governments took few and ineffective steps against instigators and perpetrators of barbarous policy, or against the spr of anti-Semitic and Fascist propaga in their own countries. They looked u Nazi persecution of Jews in Germ as a purely internal affair of the Ger nation. They did not see clearly anti-Semitism was being deliberat forged by the Nazis, not merely into instrument for power on their own ho

rounds, but also as a weapon for polit-
al penetration and disruption abroad.
either did they fully understand that
ti-Semitism would bring about the
struction not only of its Jewish vic-
ms, but that if unchecked it would lead
the destruction of democracy itself.
Nor did the abandonment of the Ger-
an Jews to their own fate by the demo-
atic governments and the Soviet Union
rve as a sop to Hitler, or dull his
petite for power. In fact, by their
ilure to protest against the cruel policy
Hitler, they helped create a popular
usion that he was all-powerful and
at he had to be appeased at any cost,
us contributing to the weakening of
e stamina and power of resistance of
s potential enemies and victims.

Anti Semitism—Good Business for Germany—A Recapitulation

Hitler, of course, had his reasons for
king anti-Semitism the spearhead of
s political structure and ambition, for
served him both as a means and a
al. As a means, it was useful in caus-
g division and dissension among the
ople in Germany as well as abroad.
hrough the preaching of anti-Semitism
was able to win over, first the dregs
German society, and later the im-
verished lower middle classes and
tionalist-minded elements, thus find-
g the mass base around whom to con-
lidate his power. Anti-Semitism was
so useful in supplying a nation, smart-
g under the defeat of the last war, with
convenient scapegoat upon whom to
nt its wrath as compensation for a
unded pride. Anti-Semitism as em-
oyed by the Nazis, in labeling every
ng, person or group they marked for
struction as "Jewish", "Jewish-influ-
ced," or "Jewish-dominated", helped
unite the broad popular masses on the
ctrine of German racial superiority
er all other races and nations, a doc-
ne vitally necessary as a psychological
p to the masses so that they might be
med with a crusading faith, and forti-
fied spiritually for an extensive war of aggression. For although anti-Semitism superficially seems to be aimed only at Jews, it is in reality directed also against the freedom of non-Jews. Furthermore, through the persecution, insulting treatment and torture of a helpless minority, the German people were given evidence of their "racial superiority". This, in turn, served to brutalize and train them for the ruthless treatment of all other races and peoples.

Anti-Semitism, moreover, constituted a convenient and potent instrument for satisfying the greed of Nazi Party adherents and fighters, through robbing the Jews of their property and livelihood. By insisting that foreign firms doing business with Germany be *Judenrein* (free of Jews), the Nazis increased their economic stranglehold, especially upon neighboring countries which depended so much on Germany's trade. Such economic penetration then served as an entering wedge for Fascist and anti-Semitic propaganda abroad, and the Nazi Party, which controlled the foreign trade, was thus able to convert it into an effective instrument of German foreign policy. Furthermore, by thus indicating to native quislings how the economic expropriation of Jews could be made a lucrative source of wealth and power, the Nazis helped create fifth-column movements everywhere, with anti-Semitism as their chief stock in trade. Anti-Semitism was fomented by the Nazis not merely as a means for their diabolical ends of capturing power in one country after another, but also as an end in itself. Hitler has time and again sworn to exterminate the Jews.—Research Institute on Peace and Post-War Problems of The American Jewish Committee, New York.

Three Times as Many Clothes

◆ The average weight of a woman's clothing is 1.8 pounds in the summer and 2.6 pounds in the winter, while a man's is three times as heavy.

How Catholic Is Italy?

NOW that the newspapers are carrying a lot of folderol about Rome "the eternal city", it will be helpful to a common-sense and sanely-balanced viewpoint to take note of the religious situation in "holy" Italy itself. There Rome has exercised the plenitude of its power for many centuries, and the results should be illuminating. Hence the following from an article by Gaetano Salvemini in *The Protestant* of August-September (1943) is timely.

No greater mistake could be made in approaching the problem of the relations between the Vatican and tomorrow's Italy than to assume that the whole population of Italy is consistently Catholic, and that therefore no stone ought to be turned in Italy without the blessing of the pope and of the clergy. . . .

From the religious point of view, the Italians may be grouped in four classes: (1) Non-Catholics; (2) Indifferents; (3) Idolaters; (4) Catholics proper.

To the first class belong not only the 48,000 Jews and the 83,000 Protestants of the 1931 statistics, but all those who, although baptized in the Catholic church, would now make profession of having no religion if they were permitted to do so. An Italian census in which people were asked to state their religion was taken in 1911. In that census 871,000 persons declared that they had "no religion"; 653,000 did not give any answer. but this silence, in all fairness, may be interpreted as an equivalent to the answer "no religion". . . .

The group of the "Indifferents" is formed by people who were baptized in the Catholic church and perform certain external acts of religion, such as contracting marriage according to the religious rite, christening their children, and asking for a religious funeral so as to obtain a regular ticket to heaven. But most of them never go to church, nor do they confess even once a year. In a pastoral letter of February, 1940, Cardinal Lavitrano, archbishop of Palermo, stated that "66 percent of the Italians do not hear mass on religious holidays, and only 12 percent of the Italian men receive communion on Easter". (N York *Times*, February 7. 1940) . . .

Most urban workers, when they are outspokenly irreligious, have this indiffe attitude. It will never be possible for Italian of this type to understand why a of sense should lose his temper over the affa of the pope, while he can go out to brea the fresh air and play a game of cards d ing his hours of leisure. Italian folklor full of stories in which priests, monks nuns are the objects of derision. The comm people of Rome are the most characteri representatives of this indifference and lery. . . .

The "Idolaters" comprise the mass of lower classes of Southern Italy, and Pa States, and a good part of Tuscany. people of Naples who abuse the image of t patron, San Gennaro, calling him "Yel Face" when he is slow in performing miracle of making his blood boil; the peas of the Abruzzi painted by Michetti and scribed by D'Annunzio who lick the floor the sanctuary with their tongues while cr ing on all fours toward the miraculous i the public woman [harlot] who keeps a l ever burning before a holy image in her "w room"—should these Idolaters be counted Catholic? . . .

Now we come to the Catholics proper, t who consistently accept the doctrines of Church and try to conform their cond to them.

These consistent Catholics are not so "c sistent" as the Irish, the Poles, or the Fre Canadians. Dante severely condemned attempt made against Boniface VIII by garet and Sciarra Colonna, inasmuch Boniface was the Vicar of Christ; but reserved a place in Hell for this same V of Christ, inasmuch as he considered hi simoniacal pope . . . not more than one-f of the Italian population may be regar as "Catholic proper". . . .

Today, even more than eighty years the temper of the Italian people is not s as to countenance any active participatio the Vatican or the Italian Catholic hierar

the Italian government. Any post-Fascist ernment in Italy which put itself under wings of the Vatican would be of short ation. Whoever, ignorant of the actual lian conditions, thought that he could ld a political regime in Italy with the help the pope would build on sand. The pope nself would be the most lamentable victim of such a mistake. The only wise thing for Pope Pius XII to do in the present emergency is to abstain from political maneuvering and to hope and pray that the Italians forgive him and his predecessor for their responsibility in aiding and abetting Mussolini and in the consequent sufferings of their unhappy country.

More About the Talmud

ECENTLY these columns carried an article entitled "The Talmud Muddle d the Way Out". Some Jewish readers ok offense at the article, which was blished for their benefit. They conded that instead of being a disreputble muddle, the Talmud was a marvels collection of Hebrew literature. Just cently Edersheim's comment on the bject has come to attention, and it is ven here in part for the further comrt and assistance of honest Jewish aders. This Jewish scholar says:

Who that has read half-a-dozen pages cessively of any part of the Talmud, can l otherwise than by turns shocked, pained, used, or astounded? There is here wit and ic, quickness and readiness, earnestness d zeal, but by the side of it terrible proity, uncleanness, superstition, and folly. ken as a whole, it is not only utterly unritual, but anti-spiritual. Not that the Talud is worse than might be expected of such itings in such times and circumstances, rhaps in many respects much better—always aring in mind the particular standpoint of rrow nationalism, without which Talmudn itself could not have existed, and which erefore is not an accretion, but an essential rt of it. But, taken not in abrupt sentences d quotations, but as a whole, it is so utterly d immeasurably unlike the New Testament, at it is not easy to determine which, as e case may be, is greater, the ignorance or e presumption of those who put them side side. . . .

And to the reader of such disjointed Rabbinic quotations there is this further source of misunderstanding, that the form and sound of words is so often the same as that of the sayings of Jesus, however different their spirit. For, necessarily, the wine—be it new or old—made in Judea, comes to us in Palestinian vessels. . . . These two, starting from principles alien and hostile, follow opposite directions, and lead to other goals. He who has thirsted and quenched his thirst at the living fount of Christ's teaching, can never again stoop to seek drink at the broken cisterns of Rabbinism.

Horse Blood for Transfusions

◆ At the California Institute of Technology "scientists" have used horse blood in transfusion into humans and for serums for immunization against disease. Dr. Dan H. Campbell, of the institute, reports:

We now can use cow or horse blood in transfusions to human [creatures], but the first transfusion sets up a hypersensitivity or allergy in the patient so that a second transfusion is dangerous and may prove fatal. We hope to overcome this in future experiments. Under present methods of immunization, for instance, meningitis germs are injected into a horse. It is these anti-bodies in serums made from the animal's blood which immunize persons against meningitis. Other serums are obtained similarly.

The divine prohibition as to eating or partaking of blood does not appear to trouble the "scientists".

The Province of Quebec Consecrated to the Holy Virgin

ON THE thirty-first of May the Province of Quebec was officially consecrated to the Holy Virgin. So we read in a French-Canadian Roman Catholic paper published in Winnipeg, Manitoba. The consecration was made by Hon. Mr. Adélard Godbout, prime minister of Quebec, over a radio hookup—no doubt on free time as a donation from the C. B. C., which collects a fee for radio licenses from all Canadians, Protestant and Catholic alike. For the edification and instruction of our readers we translate the prime minister's prayer in full:

THE ACT OF CONSECRATION

Translated from *La Liberte* of Winnipeg, Manitoba

From Quebec the prime minister, Mr. Godbout, then consecrated the Province to the Virgin Mary in the following words:

"O Our Lady, we thy children are happy solemnly to recognize thee to-day as the true and first founder of Montreal.

"And because thou hast deigned still to make thyself the guardian of all our Province, we desire by an official act (*dans un acte bien officiel*) to consecrate it entirely to thee.

"In imitation of the gesture of Champlain, who at his death, made thee the inheritor of all his goods, we choose thee for our sole and perpetual sovereign.

"O Mary, wilt thou thyself govern our country which abandons to thee all its natural and spiritual riches, that thou mayest dispose of them to the sole glory of God.

"Reign over all our parishes and in each home, making thyself the gentle ruler of them, O thou whom we wish to see preside over all our family joys.

"Above all anchor us in the holy traditions that thou hast inspired, thus aiding us better to fulfil the mission that thy Son has given us.

"O Mary, look upon these one hundred and fifty churches or chapels that we have dedicated to thee and by which we mean to repeat perpetually the rosary of thy glory.

"These one hundred and fifty churches will above all things say to thee, O Mary, that thou art at home among us and that our country is thy domain and that we are [illegible] people, a people of righteousness in a king[dom] of grace and purity.

"O Our Lady, accept this consecration [that] thy people make to thee, not with our [lips] only but from the depths of our heart as [we] bear witness, before the choirs of an[gels] which serve thee, that it is our irrevoc[able] will to belong from henceforth to none [but] thee."

In a free country there is no [law] against private individuals, whether [lay]men or priests, consecrating th[eir] country to their god or their saints. [It] would, however, be exceedingly [bad] taste for a government official to perf[orm] such an act in public, even though it [were] made clear that the act was the offici[al] personal desire and not that of his g[ov]ernment. But Mr. Godbout has gone [far] beyond bad taste; he has committe[d a] public crime against every Protestan[t in] the province of which he is prime mi[nis]ter. Mr. Godbout's prayer emphas[izes] that his consecration of Quebec to [the] Virgin Mary is *an official act* (*dans [un] acte bien officiel*). According to Mr. G[od]bout's act of consecration, all prope[rty] held by Protestants belongs to the [Ro]man Catholic Church, as do their pers[ons]. It was in this fashion that Inquisi[tion] fires were lit in Medieval days, [and] Rome has never relinquished its [so]-asserted claim to burn heretics. We p[ro]test in the name of fair-play and r[eli]gious liberty against Mr. Godbo[ut's] *official act* of the consecration of [the] Province of Quebec.

The theological implications of [the] French Roman Catholic prime minist[er's] prayer are revolting and disgusting [to] the Protestant mind. Mary is "the [Q]ueen and perpetual sovereign". Jesus Ch[rist] the Son of God is superseded by [the] Virgin. Or again, read Mr. Godbo[ut's] prayer:

"We bear witness, before the choir[s of] angels which serve thee, that it is our i[rre]

able will to belong from henceforth to ne but thee."

According to this theology Mary is on e throne—Christ is forgotten. Has Mr. odbout not read what the Son of God, e One Mediator between God and man, id in the days of His flesh to Mary, His other after the flesh: "Woman, what ve I to do with thee?"

But we do not expect theology from prime minister even in his prayers, hich in any case were doubtless ritten for him by the hand of a priest.

In political circles it is an accepted principle that "elections are not won by prayer". But in Quebec the proverb does not hold. There elections are won, if not by prayer, at least by prayers: Roman Catholic prayers recited before men, broadcast by radio with a blare of publicity. Thus did Mr. Lapointe recite his prayer in Notre Dame. Public prayer in Quebec has become a political instrument to win elections by giving irrefutable proof of supine servility to priestcraft.—*The Gospel Witness.*

The Sacrificed Freedoms

MERICAN citizens of British birth, and American citizens of American rth as well, hate to give up any of the ur freedoms proposed in the Atlantic harter: so it is with no surprise that *nsolation* received copies of letters ritten to His Majesty George VI, king the British Commonwealth, sent to n from Modesto, Calif., Anaconda, ont., New Orleans, La., Jackson, Miss., d Atlanta, Ga. And perhaps more are the way. They cover about the same ound, but as one of the writers, G. N. lburn, architect, Modesto, Calif., tes the facts with commendable point d brevity a few paragraphs from his ter will be of general interest:

Some of the periodicals of the United States America have stated that freedom of wor p and of the press have been banned in the itish Commonwealth. These freedoms have n attained by the sacrifice of countless s throughout the centuries in all nations. e attaining and maintaining of these free ms is of more importance to the world and l perhaps have more dire consequences, ost, than the outcome of the present world flict.

Thus it is with amazement that I note the ning of publications and of distribution literature and curtailing of free speech as l as of worshiping the Almighty God with fect freedom of a minority group known as ovah's witnesses. Regardless of the group, the conviction of any political or religious element curtailing any freedom guaranteed by law smacks of totalitarianism, which is an abomination to the Almighty God and destroys good government.

In November, 1942, the publications of the Watchtower Bible and Tract Society were banned in your country. This restriction deprives thousands of your subjects of the results of research of the old Scriptural manuscripts. These results have been compiled with painstaking care and study by the leaders of Christianity.

Most of the writers sent similar letters to Winston Churchill and all of them asked for the relief which it is in the power of these men to give, if they have the courage to do so. It takes real courage, in these days, to stand up like men against the open and covert demands of the Vatican. The New Orleans writer had this paragraph:

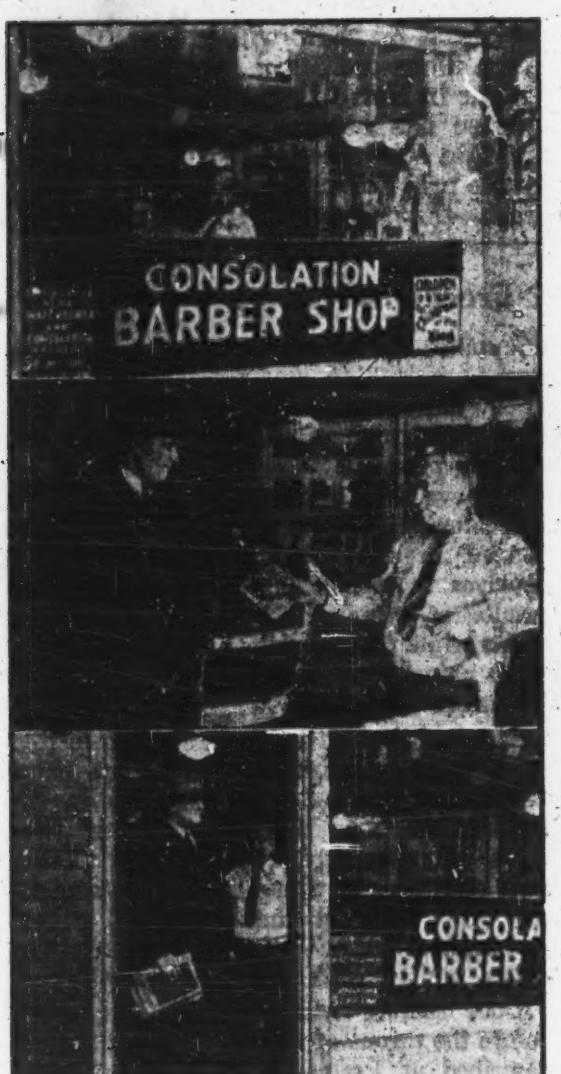
Does Britain wish to stand responsible before the throne of Almighty God with those described at Psalm 94:20 "which frameth mischief by a law" against the proclamation of His Word? I trust not.

The Cycle

♦ Rags make paper, paper makes money, money makes banks, banks make loans, loans make debts, debts make poverty, poverty makes rags.—Emerman, in *The American Guardian.*

"Consolation" Barbershop

AS YOU pass this barbershop, somewhere in Missouri, you are struck by the unusual name, and if not *from*



Missouri, yet being in Missouri, you want to be shown. Seeing that it appears to be a well-run establishment, you conclude you might as well get your hair cut in a place that is somehow different from the ordinary barbershop. Besides, deep down in your heart you admit you could stand some consolation. You enter. The proprietor welcomes you and you soon seated and tucked in. Before have time to ask about the consola angle, he remarks that while you having your hair cut you might as listen to something good. Is this go to be one of those talkative barbers? wonder. But no, he directs your att tion to a phonograph conveniently pla and starts a record. You cannot help listen and, as this is no mere chatter, interest is aroused. Besides, your c osity concerning the name of the barb shop is answered. It was consolation listen to something so helpful and Sc tural. You always did have respect the Bible. But there is more. The bar introduces you to some WATCHTOW literature, and inasmuch as this lite ture contains more information along lines of the talk you have just heard phonograph, you conclude you w some. How much is it? It is not sold, barber informs you. You may have book on a contribution of 25c. (thought it would cost you at least dollars.) Also, you decide to take you a copy of *Consolation* and of *Watchtower,* at 5c each. You leave barbershop minus your worries and superfluous hair. You know you are go to enjoy reading the book and the ma zines. The day looks brighter as you out of the door.

The Quartermasters of Bataan

◆ The quartermasters of Bataan the food trucks going as long as th was any food. They threshed the crop of Bataan and milled it. T slaughtered every head of cattle, ev cavalry horse, and every pack mule. T set fish traps. They boiled and rebo coffee grounds. They obtained salt distilling sea water. They buried dead, kept the death records, and ca for the refugees. Many were killed, all the rest are prisoners of war. they are men.

Echota Cotton Mill Management Despises Constitution

VE LIVED in the Echota mill village at Calhoun, Ga., for nearly three ars. Our little girl, Wynelle Everett, ving reached school age April 8, 1942, tered the Echota school the opening of following term. Her mother brought r the first day and filled out the entry nk, etc. The next day, during the rning program that is carried on at school, Wynelle did not salute the g. The teacher noticed it, and, as their y of salute was to place the right hand the left side and y the pledge of egiance to the g, she said, "Put ur little hand up re, hon." Wynelle id, "We don't lieve in that." e teacher said e would not make r, then. The llowing morning brought her to hool and the acher, Miss Lo- n, told me about She said Wynelle ade it so plain to r that she knew had taught her. old her why we n't salute flags d that in some aces they expel ildren from hool because of t doing so. I didn't know whether that uld be the case here or not. She said e board would meet that night and e'd find out if she could let Wynelle me on to school. Then I gave her five *d and the State* booklets, one for each the teachers there, and one for the perintendent. I showed her our pledge, page 28 of the booklet.

The next morning Wynelle's mother d I both went with her. The teacher was very kind and said the superintendent had said it would be bad to deny her an education, so let her come on to school, and if that was our belief, to just let Wynelle remain silent. I told Miss Logan, the teacher, that I was glad that they still saw freedom of speech and of worship.

But someone carried the matter to H. F. Jones, the president of the mill where I work. On Tuesday of the following week I was fired. Nelson, the superintendent of the mill, came to me and mentioned about my child's not obeying one of the ordinances of the school. I told him why we did not salute flags. So he let me go at 5:30. I told him I was sorry he didn't still see freedom of speech and of worship of God according to the dictates of conscience. I witnessed to a number of people I had never witnessed to before. I got my notice of separation. It stated, "Discharged because he would not permit his daughter to salute the American flag at the schoolhouse." This I tried to get them to change, because I merely wanted the truth. But they would not change it. They told me they didn't have a thing against my work.

Her father was discharged from his job because she loved God and did what she believed was right about saluting a flag.

By the Lord's help we are not suffering in the least from what they did to us there; we rejoice that we were counted worthy to suffer shame for His name. —Jewell E. Everett.

Progress in Louisiana

READERS of this magazine know that in No. 480, issue of February 9, 1938, under the title "Tampering with the Ten Commandments", there was given complete evidence that the Roman Catholic Hierarchy has omitted, ignored and covered up the second commandment of Almighty God and then split the tenth one into two parts to conceal the crime against God and man. Once in a while somebody finds out about this, as is disclosed in the following, which appeared in the Baton Rouge *State-Times* of January 15, 1942:

10 COMMANDMENTS PLAQUE REPLACED WITH CORRECTIONS

Shreveport, La., Jan. 15 (AP)—Last summer, with formal ceremonies and with a number of ministers [priests, OF COURSE,—*Ed.*] in attendance, the Caddo parish police jury unveiled a bronze plaque purporting to be the Ten Commandments in the corridor of the parish court house.

Today the plaque was removed by order of the police jury house committee after it was discovered that the plaque was erroneous.

The second commandment had been omitted and the tenth commandment had been divided into two and all but the first bore the wrong numbers. A new plaque will be installed.

Spiritual Food in Chicago

◆ "St. Christina Church, 11005 S. Homan Ave., November 12, 1940. Dear Friends: Turkeys—Turkeys—Turkeys. Twenty-five large turkeys. The best money can buy. Will be raffled in St. Christina Hall, 11031 S. Homan Avenue, Tuesday night, November 19, at the unbelievable low price of two cents a Bingo card. Less than a week away. No one in Chicago will give you such a bargain. Just spread this choice bit of news around town. Start a parade of your friends to the biggest turkey raffle in town. Two cents a Bingo card. No one else will offer such a bargain. Sincerely yours, Father Rebedeau."

1944 CALENDAR NOW AVAILABLE

"TEACH ME TO DO THY WILL; FOR THOU ART MY GOD."

Psalm 143:10 is the 1944 yeartext which headlines this attractive new calendar. Beneath the yeartext is a beautiful multicolored picture blended into an opened Bible as a truly fitting background and portraying a most constructive thought, that of studying and teaching God's Word. This picture alone will be an inspiration to view daily in your home throughout the year. The calendar pad attached beneath the picture contains two months on each leaf and announces the bimonthly testimony periods for 1944 and the service theme of the alternating months, with supporting Scripture texts. This feature adds greatly to the value of the calendar.

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Presenting "This Gospel of the Kingdom"

Manuscripts and Versions of the Hebrew Scriptures

(*In Three Parts*—Part 2)

THE men who copied the Hebrew Scriptures were called *scribes*, or *opherim*. Mention has already been ade in Part 1 of this article of the 15 traordinary points of the *sopherim*, mely, fifteen words or phrases in the ebrew text marked by dots above and low. What is the meaning of such is ted in the Masorah in the margin. me of these extraordinary points do t affect the English translation or the erpretation; but others do so and are importance. For example, Genesis :5, in the Masoretic text, reads: "And rai said unto Abram, My wrong be on thee: I have given my maid into thy som; and when she saw that she had ceived, I was despised in her eyes: e Lord judge between me and thee." e word "thee" has the extraordinary ipts, and the Masorah in the margin gs that the text should read: "The rd judge between me and *her*." Rother- m's Emphasised Bible translation also ads this way, and in a marginal foot- te he adds: "So it should be"; and cites . Ginsburg as authority. Genesis :9 reads: "Where is Sarah thy wife?" t according to the Masorah it should ad: "*As to* Sarah thy wife . . ." Rother- m's translation also so reads, and his otnote reads: "So it should be"; citing nsburg. The Masorah on Genesis 33:4 its Jacob's kissing Esau; and Rother- m's translation agrees, and his foot- te says "and kissed him" should be itted. Deuteronomy 29:29, according the Masorah and as given in Rother- m's, should read: "The secret things l the things that are revealed belong us and to our children unto times age- ding, that we may do all the words this law." The words "belong unto ovah our God" have the extraordi- y points, denoting their spuriousness; and Rotherham puts those words in brackets, and his extended footnote adds: "When these words are cancelled," says Dr. Ginsburg, "we obtain the sense —'The secret things and the revealed things belong to us and to our children for ever if we do all the words of this Law.' That is, the secret things, or the doctrines which have not as yet been revealed . . . . belong to us and our children, or will be disclosed to us, if we do all the words of this Law which have been revealed to us. . . ."

Also, Psalm 27:13 should read: "I believe that I shall see the goodness of Jehovah in the land of the living." Rotherham's footnote thereon reads: "The conditional word ["unless"] with which, in the Masoretic text, this verse opens, is dotted above and below as spurious, and should accordingly be omitted. It is not found in some manuscripts, nor in the Septuagint, Syriac, Vulgate [versions]. The italic words *I had fainted*, both in the Authorized Version and in the Revised Version, are an exegetical gloss'.—Ginsburg's notes." The other cases of these extraordinary points of the *sopherim* are: Genesis 19:33, 35; 37:12; Numbers 3:39; 9:10; 21:30; 29:15; 2 Samuel 19:29; Isaiah 44:9; and Ezekiel 41:20; 46:22.

It is well known with what superstitious fear the religious Jews regarded the pronouncing of the name *Jehovah*, lest they should be guilty of violating the commandment to take it not in vain. This doubtless accounts for it that in the pre-Masoretic Hebrew texts the *sopherim* altered "Jehovah" to "Adonai" (meaning "Lord") at 134 places in the body of the text; besides some 17 or more places where they changed "Jehovah" to "Elohim" (meaning "God") in the printed text. The Masorah gives the official list of these. Some instances of these are here considered. In Genesis 18:3, where Abraham is addressing the three angels

of Jehovah God visiting him, it should read "Jehovah", and not "My Lord", as in the King James English version Bible. Likewise, at verses 27, 30, 32 it should read "Jehovah" instead of "the Lord". By the changes the *sopherim* evidently meant to avoid having Abraham address Jehovah's representatives by God's own holy name. Likewise, at Exodus 4:10, 13 and 34:9, where Moses is addressing Jehovah's representative it should read "Jehovah", instead of "my Lord". The same is true at Judges 6:15 and 13:8, and at Genesis 19:18; and at Genesis 20:4 the Rotherham translation footnote comments on the expression "O my Lord" and says: "Some codices: 'O Jehovah.'—Ginsburg notes."

On Isaiah 30:20, which reads: "Though *My Lord* should give you bread in short measure and water in scant allowance, yet will thy Teacher not hide himself any more, but thine eyes shall ever be looking on thy Teacher," the Rotherham footnote says: "Some codices (with three earlier printed editions): 'Jehovah' (instead of 'Adonay')." On Psalm 2:4, reading: "He that sitteth in the heavens will laugh, *My Lord* will mock at them," the Rotherham footnote reads: "Some codices (with two earlier printed editions [one of them, the first edition 1477]) have 'Jehovah'." On Psalm 110:5, which says: "*My Lord*, on thy right hand, hath shattered in the day of his anger kings," the Rotherham footnote reads: "Hebrew: *Adonay*. Some codices: 'Jehovah.'"

Passages where "Jehovah" in the Hebrew text was changed to "Elohim" (meaning "God") are: 1 Chronicles 13:12; 14:10, 11, 14, 16; and Psalms 14:1, 2, 5; 53:1, 2, 4, 5. According to this Psalms 14:1 and 53:1 originally read: "The fool hath said in his heart, There is no Jehovah." On Psalm 53:6, reading: "When God bringeth back the captives of his people Jacob shall exult, Israel shall be glad," the Rotherham footnote says: "Some codices (with Aramaic, Septuagint and Syriac): 'When Jehovah.' Compare Psalm 14:7."

The *sopherim*, or scribes, are charged with making at least 18 *emendations*, according to a note in the Masora at several passages in the Hebrew Bible manuscripts. These, however, are typical of possibly more, because the emendations are not the same ones in all codices. The Siphri, on Leviticus, brings to light 7 passages; the Yalkut, on the whole Hebrew Scriptures, 10; the Mechilta, on Exodus, 11; the Tanchuma, on the Pentateuch, 17; while the St. Petersburg Codex gives 2 not in any of the above, namely at Malachi 1:12 and 3:9; where the Rotherham translation is rendered accordingly and has explanatory footnote.

The Rotherham translation of Genesis 18:22 reads: "But Jehovah was yet standing before Abraham"; concerning which the footnote reads: "So it should be. 'It was deemed derogatory to the Deity to say that the Lord stood before Abraham. Hence in accordance with the above rule to remove all indelicate expressions the phrase was altered by the Sopherim.'—Ginsburg's Introduction." Rotherham also has interesting footnotes on 2 Samuel 20:1; 1 Kings 12:1; 2 Chronicles 10:16.

Such emendations were made long before Christ, and were made because the original readings affect, or touch upon the divine Person, Jehovah, indelicately, it was thought. Rotherham gives his translation according to the original unemended text at Job 7:20; 35:6; Ecclesiastes 3:21; Ezekiel 8:17; Hosea 4:7; Habakkuk 1:12, and Zechariah 2:8, on all of which texts he has footnotes; besides footnotes on Numbers 11:15; 12:12, and Job 1:5, 11; 2:5.

The book *The New World*, page 2, paragraph 1, gives us an instance of this. It says concerning Job 32:3:

Elihu had particular wrath against the three religionists who had tried to break Job's integrity and had not answered him with truth so as to vindicate Jehovah God on the issue

cause that they found not a response, and demned God." ([Job] 32:3) So reads the herham version, and with this the comment the Catholic Bible also agrees, saying: mo:t all the Rabbins assert that the origi- copies read *Jehova*, 'the Lord;' (H.) and t the Masorets changed it, to avoid the arent blasphemy; as if the three friends rendered themselves guilty by not answer- Job." The marginal comment of Rother- 's version agrees with the Catholic and s: "The context shows that the original ding is preferable."

The Masorah also gives us a list of 32 ssages which have different readings ording to an important codex and ich are called "Severin". This codex tained the Pentateuch (or the five ks of Moses) and is understood to one of the manuscripts that the man general Titus brought away with from Jerusalem's temple as spoils which were deposited in the royal ace at Rome, about A.D. 70. This lex was handed over to the Jewish mmunity at Rome, about A.D. 220, by Emperor Severus, who built a synagogue for the Jews there and which synagogue was called after his name. Each of the above 32 passages is called a *Sevir*. Some of these "Severin" affect only the spelling of words and have no real instruction in them. Some passages of them agree with the Greek Septuagint version and the Targum of Onkelos and Jerome's Latin Vulgate. There are 14 such *Severin* in Genesis, 3 in Exodus, 3 in Leviticus, 5 in Numbers, and 7 in Deuteronomy. The *Severin* reading at Genesis 3:21 omits the words "of skins" from the statement concerning coats God made for Adam and Eve; Genesis 18:21 reads "their outcry", which a Rotherham footnote says is "manifestly the primitive and better reading"; Genesis 25:33 reads "ware" instead of "birthright" in connection with Esau's sale to Jacob; and Leviticus 15:8 speaks of "running" water. It is thus seen that such *Severin* passages affect the sense of the Scripture verses involved.

(*To be continued*)

Sebring Denies Freedom of Worship

LL Americans should be interested to know that in the city of Sebring, Fla., only is freedom of worship denied, even the right to work for a living, in the employment of the United tes Government itself. The *Highland unty News* sets forth the astonishing ts:

Everyone in Sebring who has heard of the knows the man was discharged because his religious belief and the reason given at he was suspended for distributing litera- is only to sidestep the issue. The man question is a good citizen from a good ily, was always courteous and efficient as as patrons of the office were concerned has an excellent moral reputation.

n the past we have had postal clerks here did not have such moral reputations and tal employees who engaged in other pur- suits while drawing pay as postal employees, but who were not discharged.

Without regard for the man or his religion, an organization as big as the postal service should not stoop to religious persecution. If a person in this community who happens to have a religious belief which is agreed with by only a very small minority can be fired, the same can happen to a Methodist, Baptist, Catholic or Jew in another community.

We must admit that the person who has the moral courage to stand up for his religious beliefs in the face of such overwhelming odds is the type that has made this country a great country. They breed brave men and women. Belief in God and what we commonly refer to as our religious beliefs is what keeps man from being a beast. No man should be deprived of his livelihood in public or private employment because of his religion.

IT IS NOW RELEASED!

1944 YEARBOOK

OF JEHOVAH'S WITNESSES

Has the prancing beast of total war frightened the servants of God in taking cover and being silent? Did the world-wide proclamation of Jehova New World during the last year decline due to mounting difficulties? Jehov has declared that "of the increase of His [King's] government and peace the shall be no end", and this has been unmistakably proved true during the servi year of 1943. By reading the truly astounding and clearly presented report by t president of the Watch Tower Bible & Tract Society on the service activities free education of men of good-will you will discern that, without a doubt, t Lord Jehovah is with His people, leading them victoriously through the increa ing opposition now challenging them in their stand for freedom.

The global activities of the Lord's army of over 100,000 fighters for the Ne World, and the results attained, are covered in this thrilling new *Yearbook*. T faithful onward march of the servants of Jehovah, in every section of the earth is revealed in the pages of this book. It shows also their determination to contin holding forth and teaching God's Word of truth, and the record of this bold sta will be an encouragement to all freedom-loving people.

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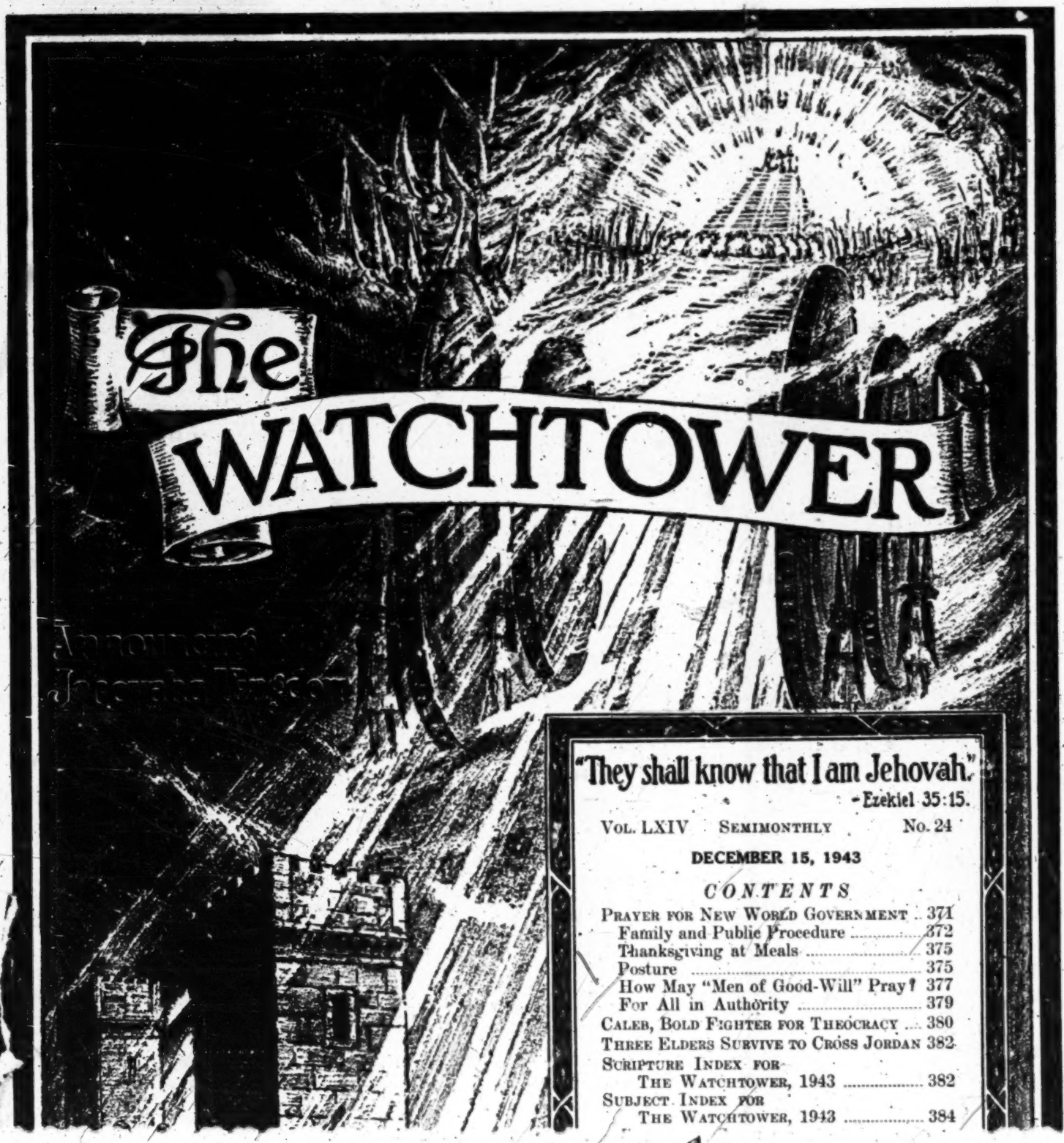

"They shall know that I am Jehovah."
-Ezekiel 35:15.

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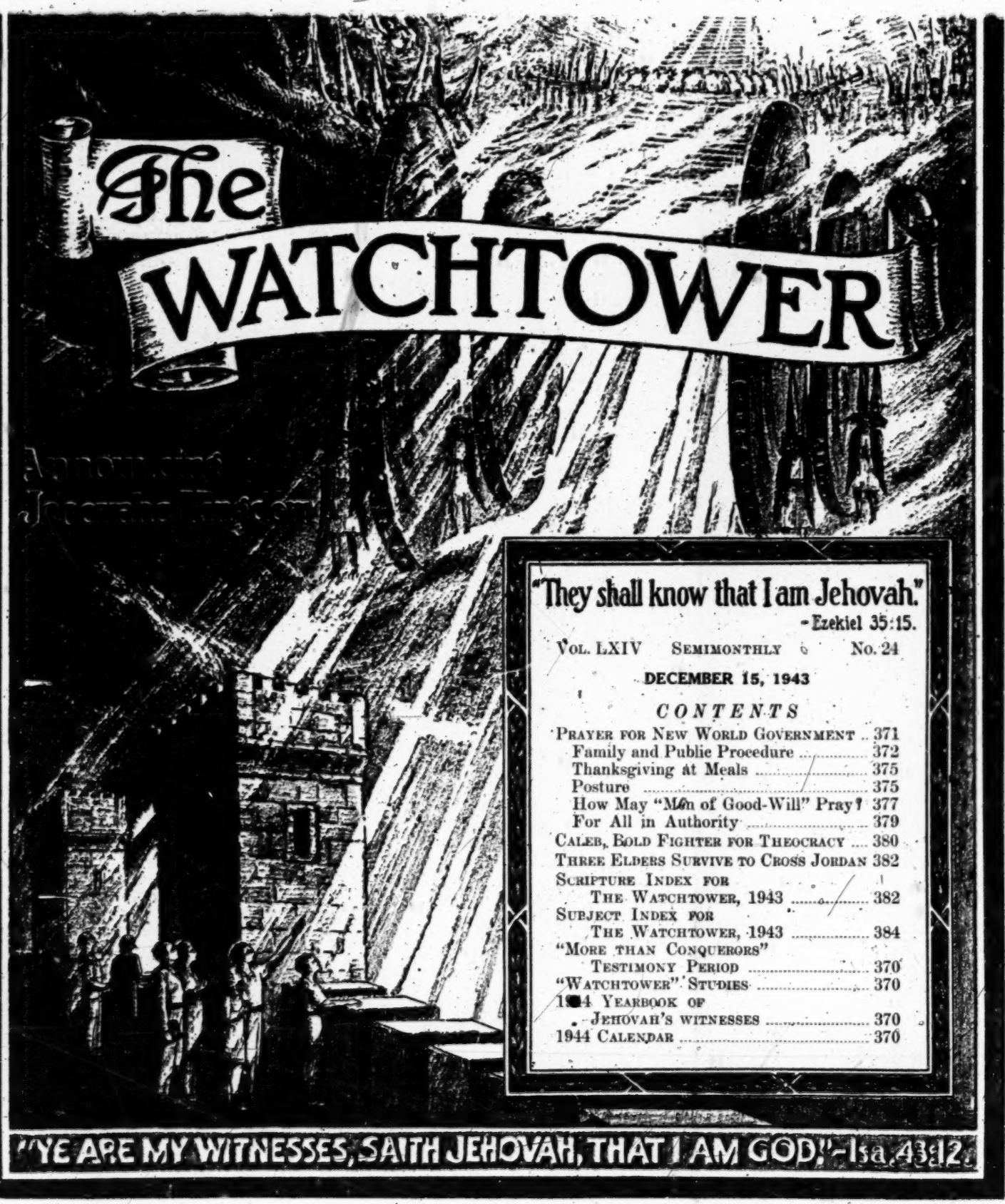

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"YE ARE MY WITNESSES, SAITH JEHOVAH, THAT I AM GOD." -Isa. 43:12.

The WATCHTOWER

PUBLISHED SEMIMONTHLY BY

WATCH TOWER BIBLE & TRACT SOCIETY

117 Adams Street - - Brooklyn 1, N.Y., U.S.A.

OFFICERS

N. H. KNORR, *President* W. E. VAN AMBURGH, *Secretary*

"And all thy children shall be taught of Jehovah; and great shall be the peace of thy children." - *Isaiah 54:13.*

THE SCRIPTURES CLEARLY TEACH

THAT JEHOVAH is the only true God and is from everlasting to everlasting, the Maker of heaven and earth and the Giver of life to his creatures; that the Logos was the beginning of his creation, and his active agent in the creation of all other things, and is now the Lord Jesus Christ in glory, clothed with all power in heaven and earth, as the Chief Executive Officer of Jehovah;

THAT GOD created the earth for man, created perfect man for the earth and placed him upon it; that man willfully disobeyed God's law and was sentenced to death; that by reason of Adam's wrong act all men are born sinners and without the right to life;

THAT THE LOGOS was made human as the man Jesus and suffered death in order to produce the ransom or redemptive price for obedient ones of mankind; that God raised up Jesus divine and exalted him to heaven above every other creature and above every name and clothed him with all power and authority;

THAT JEHOVAH'S ORGANIZATION is a Theocracy called Zion, and that Christ Jesus is the Chief Officer thereof and is the rightful King of the world; that the anointed and faithful followers of Christ Jesus are children of Zion, members of Jehovah's organization, and are his witnesses whose duty and privilege it is to testify to the supremacy of Jehovah, declare his purposes toward mankind as expressed in the Bible, and to bear the fruits of the Kingdom before all who will hear;

THAT THE OLD WORLD ended in A. D. 1914, and the Lord Jesus Christ has been placed by Jehovah upon his throne of authority, has ousted Satan from heaven and is proceeding to the establishment of the "new earth" of the New World;

THAT THE RELIEF and blessings of the peoples of earth can come only by and through Jehovah's kingdom under Christ, which has now begun; that the Lord's next great act is the destruction of Satan's organization and the complete establishment of righteousness in the earth, and that under the Kingdom the people of good-will that survive Armageddon shall carry out the divine mandate to "fill the earth" with a righteous race.

ITS MISSION

THIS journal is published for the purpose of enabling the people to know Jehovah God and his purposes as expressed in the Bible. It publishes Bible instruction specifically designed to aid Jehovah's witnesses and all people of good-will. It arranges systematic Bible study for its readers and the Society supplies other literature to aid in such studies. It publishes suitable material for radio broadcasting and for other means of public instruction in the Scriptures.

It adheres strictly to the Bible as authority for its utterances. It is entirely free and separate from all religion, parties, sects or other worldly organizations. It is wholly and without reservation for the kingdom of Jehovah God under Christ his beloved King. It is not dogmatic, but invites careful and critical examination of its contents in the light of the Scriptures. It does not indulge in controversy, and its columns are not open to personalities.

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"MORE THAN CONQUERORS" TESTIMONY PERIOD

December has been set aside as the Testimony Period above named. Suffice it to say there is much for each to conquer who takes part therein. All who conquer self-love and who permit nothing to sever them from the love of God which is in Christ Jesus are taking hold of the privileges of the month. The means of testimony that is to the forefront is the latest publications, the book *"The Truth Shall Make You Free"* and the booklet *Freedom in the New World*, both being presented to all prospects on a 25c contribution. As winter then sets in in the Northern Hemisphere, the placing of the literature should be followed up by starting Bible studies, primarily with the new book, in as many homes of obtainers of literature as possible. Let the testimony thus be most deeply impressed and continue on through the winter-bound months. Your report on service at the month's close should show, besides literature placed, new book studies. Have a conqueror's part in the campaign with

1944 YEARBOOK OF JEHOVAH'S WITNESSES

Despite the unfavorable conditions, the 1944 *Yearbook of Jehovah's witnesses* has been produced covering the world-wide accomplishments of these Bible educators during this past service year of 1942-1943. The stirring report thereof has been prepared by the president of the Watch Tower Bible and Tract Society, and sets out also the key-features and objectives of the work immediately ahead, thus providing valuable material for service discussions and also counsel for all educators of men of good-will. A daily text and comment covering each day of the year 1944, as based on *The Watchtower*, makes it a daily handbook of spiritual food. The new *Yearbook*, of over 350 pages, enclosed in a sturdy binding, may be had at 50c a copy, postpaid. Those associated in a group or company should combine orders and send through the local servant, to economize time and shipping expense.

1944 CALENDAR

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"MORE THAN CONQUERORS" TESTIMONY PERIOD

December has been set aside as the Testimony Period above named. Suffice it to say there is much for each to conquer who takes part therein. All who conquer self-love and who permit nothing to sever them from the love of God which is in Christ Jesus are taking hold of the privileges of the month. The means of testimony that is to the forefront is the latest publications, the book *"The Truth Shall Make You Free"* and the booklet *Freedom in the New World*, both being presented to all prospects on a 25c contribution. As winter then sets in in the Northern Hemisphere, the placing of the literature should be followed up by starting Bible studies, primarily with the new book, in as many homes of obtainers of literature as possible. Let the testimony thus be most deeply impressed and continue on through the winter-bound months. Your report on service at the month's close should show, besides literature placed, new book studies. Have a conqueror's part in the campaign with Freedom's message. Write us direct, if necessary.

"WATCHTOWER" STUDIES

Week of January 16: "Prayer for New World Government," ¶ 1-15 inclusive, *The Watchtower* December 15, 1943.
Week of January 23: "Prayer for New World Government," ¶ 16-32 inclusive, *The Watchtower* December 15, 1943.
Week of January 30: "Prayer for New World Government," ¶ 33-46 inclusive, *The Watchtower* December 15, 1943.

1944 YEARBOOK OF JEHOVAH'S WITNESSES

Despite the unfavorable conditions, the 1944 *Yearbook of Jehovah's witnesses* has been produced covering the world-wide accomplishments of these Bible educators during this past service year of 1942-1943. The stirring report thereof has been prepared by the president of the Watch Tower Bible and Tract Society, and it sets out also the key-features and objectives of the work immediately ahead, thus providing valuable material for service discussions and also counsel for all educators of men of good-will. A daily text and comment covering each day of the year 1944, as based on *The Watchtower*, makes it a daily handbook of spiritual food. The new *Yearbook*, of over 350 pages, enclosed in a sturdy binding, may be had at 50c a copy, postpaid. Those associated in a group or company should combine orders and send through the local servant, to economize time and shipping expense.

1944 CALENDAR

The Watch Tower Society's 1944 calendar features the yeartext; namely, "Teach me to do thy will; for thou art my God." (Psalm 143:10) The up-to-date animated picture accompanying (in color) conforms to the text and illustrates how it is being carried out by those who now make the text their own. The calendar pad announces the bimonthly Testimony periods of 1944, and also the service themes and supporting scriptures of the alternating months. The calendar is now available, and will be mailed on a contribution of 25c a copy, or 5 copies to one address on a $1.00 contribution.

The WATCHTOWER

ANNOUNCING JEHOVAH'S KINGDOM

VOL. LXIV DECEMBER 15, 1943 No. 24

PRAYER FOR NEW WORLD GOVERNMENT

"Prayer also shall be made for him continually; and daily shall he be praised."—Ps. 72:15.

JEHOVAH long deferred his answer to the prayer, "Thy kingdom come. Thy will be done in earth, as it is in heaven." His Son on earth taught his disciples that prayer. All those who have followed in his footsteps for the past nineteen centuries have taken it up and repeated it. That prayer voices the central theme of all the divine promises and prophecies of aforetime, that God Jehovah would set up a government that would vindicate his name by destroying the first and chief one to slander it. Such government shall also cause his will, long disregarded on earth because of the slander against his holy name, to be done among men on earth as it is done among the spirit creatures in heaven. That is therefore a government of liberation and life to all on earth doing His will.

2 It has not been a vain repetition for God's faithful people to utter the prayer for the Kingdom during all those centuries, but has kept their minds and hearts fixed on the coming Rule of God and has helped them to live in expectancy of it. God did not fulfill the petition sooner, not because he was deaf thereto, but because it was not his due time. For this cause, when his resurrected Son ascended from the earth to his heavenly Father, Jehovah did not at once install him as reigning King. He bade him wait till the time of the end: "Sit thou at my right hand, until I make thine enemies thy footstool." (Heb. 10:12, 13; Ps. 110:1) In A.D. 1914 the old world's "time of the end" began, and God's due time came and he began the Government of the world of righteousness. Causing his Son to wield the rod of his strength out from the capital organization, Jehovah said to him: "Rule thou in the midst of thine enemies."—Ps. 110:1, 2.

3 [illegible]

wise be questioned. He taught his disciples to pray to God the Father, "Thy kingdom come"; and yet thereafter he said to the religious Pharisees who demanded to know when the Kingdom should come: "The kingdom of God cometh not with outward shew: neither shall they say, Lo here! or, lo there! for, behold, the kingdom of God is among you." (Luke 17:20, 21, marginal readings) Jesus, anointed with God's spirit to be the King of the New World Government, was in their midst, among his enemies, fighting it out with them with the weapons that are mightier than carnal weapons of warfare, to the pulling down of the strongholds of error. So viewed, the kingdom of God in the person of its Chief Executive was there among them. Yet, "thy kingdom come!"

4 Now too the heavenly King is here, ruling upon the throne in the midst of all his enemies, both demons and opposing men, who have been made his footstool at the earth. Nonetheless, the prayer "Thy kingdom come" is still proper to render to God. The opposition governments on earth under Satan, the god of this world, still operate. The "iron rod" of the King must still come against them at Armageddon and dash them to pieces like pottery. The "stone" of God's kingdom by his Messiah Prince has indeed been cut without human hands out of the "mountain" of God's universal organization. The "stone" exists as "cut out" in 1914, but it must yet smite the terrible idolatrous image of Satan's organization and grind it to powder, to be blown into oblivion by the forces of God's power. (Ps. 2:8, 9; Dan. 2:34, 35, 44, 45) Thus the kingdom of God must yet come. It will speedily come at Armageddon and will thereafter become the "great mountain" that fills the whole earth without any place left for any other "moun-

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3 Inasmuch as the Kingdom was established in 1914, why should Jehovah's people still pray, "Thy kingdom come"? The fitness of praying that prayer during the days of God's Son in the flesh may likewise be questioned. He taught his disciples to pray to God the Father, "Thy kingdom come"; and yet thereafter he said to the religious Pharisees who demanded to know when the Kingdom should come: "The kingdom of God cometh not with outward shew: neither shall they say, Lo here! or, lo there! for, behold, the kingdom of God is among you." (Luke 17:20, 21, marginal readings) Jesus, anointed with God's spirit to be the King of the New World Government, was in their midst, among his enemies, fighting it out with them with the weapons that are mightier than carnal weapons of warfare, to the pulling down of the strongholds of error. So viewed, the kingdom of God in the person of its Chief Executive was there among them. Yet, "thy kingdom come!"

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5 At the Kingdom's establishment in 1914 the long-foretold "day of Jehovah" began. It is the "day of his preparation" for the final conflict of Armageddon. It ends with his Theocratic Government by

1. What is the central theme of all of God's past promises and prophecies for which Christians have prayed, and what will it accomplish in heaven and in earth?

2. Why has it not been vain repetition to utter the Kingdom prayer? and how and when did God answer it, and why not sooner?

3. What seeming disagreement, corresponding to that today, existed between Jesus' teaching his disciples to pray for the Kingdom and his own presence among them?

4. Since the Kingdom was set up in A.D. 1914, why is the prayer still proper, "Thy kingdom come"?

5. (a) At the Kingdom's establishment what foretold days began, and why is it needful to continue in prayer? (b) What does it mean to "pray without ceasing"?

Christ Jesus in full control of all the universe, including this earth, by the crushing defeat of all enemies there. (Nah. 2:3) During this day, which is "known unto Jehovah", he does his "strange work" by his witnesses. He sends them forth to all nations while the governments thereof are still going concerns. The great enemy and his hordes of demons and wicked men come in like a flood and seek to overwhelm Jehovah's witnesses and their advertising of God's kingdom. Then the Lord God raises up his standard of fighting truths, Kingdom truths, against the opposers who defy being bound by God's kingdom. (Zech. 14:7; Isa. 59:19; Rev. 12:17) Not to yield to the pressure nor to compromise with the foe, but to hold true to the God-given commission to preach the Kingdom gospel, this requires His witnesses to "pray without ceasing". "Continue in prayer, and watch in the same with thanksgiving." (1 Thess. 5:17; Col. 4:2) Prayer "without ceasing" does not signify shutting up themselves behind the tall, somber walls of a monastery or nunnery and doing nothing but repeating prayers. That is religion. It is forbidden by the Lord, and it does not allow for getting his work done. 'Ceaseless praying' means, therefore, using always the avenue of prayer to God when it is fitting and necessary as one keeps on in his service.

6 Some, claiming to seek the Lord's will, set as their guide to communion with God only what Christ Jesus said in the sermon on the mount, at Matthew 6:5-13. On this basis they rule out all prayer in public or in presence of others on any occasion, including prayer of thanksgiving before meals or in a household. They use the Lord's mountain-words as a single standard to measure prayer, and they brand all but private, unobserved prayer in secret as religious hypocrisy. We ask: May this view and argument be a device of the wily adversary to disarm God's people of an effective weapon against Satanic machinations? For an answer to this we cannot take the above-cited few words of the Master as the complete pronouncement or as an over-all measure of what is proper and what is religious hypocrisy. We must consult the rest of God's Word, including our Lord's further words and his own example and that of his disciples and the early men is hypocrisy. It brings no reward from God, but only from awestruck men, and is therefore out of order. There are proper times for retiring alone for prayer. Quite so Jesus at times rose up early before day to depart into a solitary place to pray or he withdrew into a mountain apart to do so. (Matt. 14:23; Mark 1:35; 6:46; Matt. 26:39, 42, 44) Then his Father saw him in secret, and rewarded him openly before witnesses, and he overcame the world through the strength from Jehovah God. On the other hand, there are instances of where he did otherwise. These should be considered in conjunction with the course of all the faithful servants of God in the Scriptures in order to determine upon proper prayer.

FAMILY AND PUBLIC PROCEDURE

8 The Lord God's testimony respecting Abraham his friend was: "I know him, that he will command his children and his household after him, and they shall keep the way of the LORD, to do justice and judgment; that the LORD may bring upon Abraham that which he hath spoken of him." (Gen. 18:19; 26:5) This included instruction by Abraham of his assembled household, at which time doubtless he conducted them in petition to God Almighty for His guidance and help. Job most certainly assembled his household and led them in supplication to the Lord for his mercy and forgiveness. (Job 1:5) When King David had caused the ark of the covenant of the Lord to be brought to the capital city and lodged in a special tent near his palace on Mount Zion, David gratefully and joyfully went home to assemble his household and ask God's blessing upon them. "Then David returned to bless his household." (2 Sam. 6:20; 1 Chron. 16:43) Timothy's mother, Eunice, together with her mother, Lois, took him as a child and instructed him in the Hebrew Scriptures, because his father was a Gentile Greek. Who can do justice to them to think that the devoted mother and grandmother thus 'brought him up in the nurture and admonition of the Lord' without opening the instruction period with praise and petition to Jehovah God? (2 Tim. 1:5; 3:14, 15; Acts 16:1-3) The apostle's inspired instruction to parents is: "Fathers, do not irritate your children, but bring them up in

the governments thereof are still going concerns. The great enemy and his hordes of demons and wicked men come in like a flood and seek to overwhelm Jehovah's witnesses and their advertising of God's kingdom. Then the Lord God raises up his standard of fighting truths, Kingdom truths, against the opposers who defy being bound by God's kingdom. (Zech. 14:7; Isa. 59:19; Rev. 12:17) Not to yield to the pressure nor to compromise with the foe, but to hold true to the God-given commission to preach the Kingdom gospel, this requires His witnesses to "pray without ceasing". "Continue in prayer, and watch in the same with thanksgiving." (1 Thess. 5:17; Col. 4:2) Prayer "without ceasing" does not signify shutting up themselves behind the tall, somber walls of a monastery or nunnery and doing nothing but repeating prayers. That is religion. It is forbidden by the Lord, and it does not allow for getting his work done. 'Ceaseless praying' means, therefore, using always the avenue of prayer to God when it is fitting and necessary as one keeps on in his service.

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7 Of course, the Master's words are true: Striking up an attitude of prayer in public places to go through some formula of prayer of private concern just to appear holy and to be seen and admired of

6. What narrow position do some take toward Jesus' words at Matthew 6:5-13 concerning prayer? and how shall we determine whether such argument is a wily device of the adversary?
7. Why are Jesus' words at Matthew 6:5-13 true, as shown by his own conduct? and yet why is that insufficient for the full consideration of the subject?

withdrew into a mountain apart to be [illegible] (Luke 14:23; Mark 1:35; 6:46; Matt. 26:39, 42, 44) Then his Father saw him in secret, and rewarded him openly before witnesses, and he overcame the world through the strength from Jehovah God. On the other hand, there are instances of where he did otherwise. These should be considered in conjunction with the course of all the faithful servants of God in the Scriptures in order to determine upon proper prayer.

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9 Jesus' own actions did not contradict his counsel to his disciples. He was consistent in offering thanks to his Father before his faithful apostles on the passover night when he set up the Memorial called "the Lord's supper". (Matt. 26:26, 27; 1 Cor.

8. How did the cases of Abraham, Job, David, and Timothy's mother and grandmother show what is proper family procedure as to prayer?
9. What instances are there of where Jesus offered prayer before his disciples or more openly in public?

11:23, 24) That is not all. More openly, when he fed the five thousand from a boy's small luncheon, and later also four thousand from a few loaves and fishes, he, before all of them, offered up public acknowledgment to the great Provider in heaven. (Matt. 14:19; 15:36; Mark 8:6) At the time his disciples returned from their preaching tour of announcing "The kingdom of heaven is at hand", Jesus before them thanked God for having thus favored these spiritual "babes", while denying such favor to the "wise and prudent". (Luke 10:21; Matt. 11:25) In the holy mountain, in presence of Peter, James and John, it was while he was communing with God that Jesus was transfigured with glory and God's voice was heard in answer from heaven. (Luke 9:28-36) It was also after he had ceased praying in the midst of his disciples that one of them asked Jesus to teach them how to do so.—Luke 11:1.

[10] Concerning his miracle of raising Lazarus from the dead the Record says: "Then they took away the stone from the place where the dead was laid. And Jesus lifted up his eyes, and said, Father, I thank thee that thou hast heard me. And I knew that thou hearest me always: but because of the people which stand by I said it, that they may believe that thou hast sent me." (John 11:41, 42) This last utterance proves that Jesus' presentation of prayer before others in public was not for selfish vanity and glorification, to be seen of men, but for a witness. All true followers of him are grateful that, on the night when he instituted the Lord's supper, before going out to the garden of Gethsemane he offered prayer before his tried and tested disciples and that the prayer was heard by them and recorded, at John chapter seventeen, and preserved for us.

[11] How did the personal associates of Christ Jesus understand his words concerning prayer? Did they understand themselves to be confined strictly to individual prayer in secret behind closed doors? Did they refrain from engaging in this privilege in company with fellow Christians? Did they consider it contrary to Jesus' instructions when the chairman of a gathering for study or proclamation of God's Word expressed thanks and petition to Him in behalf of all the assembly? The inspired historic record speaks for itself. Acts, chapter one, tells that after Jesus' ascension to heaven his disciples "all continued with one accord in prayer and supplication, with the women, and Mary the mother of Jesus, and with his brethren." Then Peter stood up in the midst of the disciples and said, Thou, Lord, which knowest the hearts of all men, shew whether of these two thou hast chosen." The lot came out for one of them, of course, Matthias.

[12] Thereafter on the day of Pentecost the holy spirit of God was poured out upon them and Peter openly declared to the great multitude of public that assembled that Jesus is Lord and Messiah or Christ. About three thousand persons repented and were baptized into the faith. What did they do under the moving power of God's spirit? "And they continued stedfastly in the apostles' doctrine and fellowship, and in breaking of bread, and in prayers." (Acts 2:42) Shortly Peter and John were arrested for preaching and gave a testimony in court and were released. "And being let go, they went to their own COMPANY, and reported all that the chief priests and elders had said unto them. And when they heard that, they lifted up their voice to God with one accord, . . . And when they had prayed, the place was shaken where they were assembled together; and they were all filled with the holy [spirit], and they spake the word of God with boldness."—Acts 4:23-31.

[13] When dispute over the food administration arose, the apostles decided to turn it over to seven appointed men, saying: "But we will give ourselves continually to prayer, and to the ministry of the word." The seven men were appointed; "whom they set before the apostles: and when they had prayed, they laid their hands on them. And the word of God increased; and the number of the disciples multiplied." (Acts 6:4, 6, 7) When Saul's persecution scattered the disciples from Jerusalem, Philip preached among the Samaritans. "Now when the apostles which were at Jerusalem heard that Samaria had received the word of God, they sent unto them Peter and John: who, when they were come down, prayed for them, that they might receive the holy [spirit]." Their prayers in public were answered.—Acts 8:14, 15.

[14] After King Herod had the apostle James killed and held Peter for possible execution, "Peter therefore was kept in prison: but prayer was made without ceasing of the church unto God for him." Was that merely private individual prayer in secret? In answer to prayer Peter was released by God's angel. "And when he had considered the thing, he came to

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10. (a) What did Jesus' words at Lazarus' tomb show to be the purpose of prayer in public? (b) What does the record at John 17 show on the subject, and what is our feeling regarding the record?

11. What questions concerning prayer do we ask as respects Christ's personal associates? and what does Acts, chapter 1, have to say in answer?

assembled that Jesus is Lord and Messiah or Christ. About three thousand persons repented and were baptized into the faith. What did they do under the moving power of God's spirit? "And they continued stedfastly in the apostles' doctrine and fellowship, and in breaking of bread, and in prayers." (Acts 2:42) Shortly Peter and John were arrested for preaching and gave a testimony in court and were released. "And being let go, they went to their own COMPANY, and reported all that the chief priests and elders had said unto them. And when they heard that, they lifted up their voice to God with one accord, . . . And when they had prayed, the place was shaken where they were assembled together; and they were all filled with the holy [spirit], and they spake the word of God with boldness."—Acts 4:23-31.

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12. What record concerning public prayer was made regarding the day of Pentecost and after the apostles' release from prison?

13. What does the record show respecting the settlement of the food administration problem at Jerusalem? and also Peter and John's visit to Samaria after Philip?

14. (a) What does the record show as to the time that King Herod held Peter in prison and God's angel released Peter? (b) How did this agree with Jesus' instruction and also Daniel's request of his three Hebrew companions in Babylon?

Matthew 18:19, 20: "Again I say unto you, That if two of you shall agree on earth as touching any thing that they shall ask, it shall be done for them of my Father which is in heaven. For where two or three are gathered together in my name, there am I in the midst of them." The Master was, of course, acquainted with the record of Daniel's course when King Nebuchadnezzar forgot his dream and Daniel and his three companions were menaced with death along with all the wise men of Babylon. "Then Daniel went in, and desired of the king that he would give him time, and that he would shew the king the interpretation. Then Daniel went to his house, and made the thing known to Hananiah, Mishael, and Azariah, his companions: that they would desire mercies of the God of heaven concerning this secret; that Daniel and his fellows should not perish with the rest of the wise men of Babylon. Then was the secret revealed unto Daniel in a night vision." (Dan. 2:16-19) United prayer!

[16] A company of Christians was formed at Antioch, in Syria, and God by his spirit indicated that Saul and Barnabas should be sent forth on missionary work. "And when they had fasted and prayed, and laid their hands on them, they sent them away." (Acts 13:3) In the course of their pioneer work in foreign lands numerous congregations of believers were organized. "And when they had ordained them elders in every church, and had prayed with fasting, they commended them to the Lord, on whom they believed." (Acts 14:23) The first Christian convert in Europe was Lydia, whom the apostle Paul found at a prayer gathering of Jewish women in Macedonia. Then the demons hounded Paul and his associates: "and it came to pass, as we went to prayer, a certain damsel possessed with a spirit of divination met us, which brought her masters much gain by soothsaying." Due to developments from this Paul and Silas did not have their prayer assembly at the appointed place, but in prison. "And at midnight Paul and Silas prayed, and sang praises unto God: and the prisoners heard them." Deliverance from prison quickly followed.—Acts 16:13, 16, 25.

[16] On his final journey to Jerusalem Paul stopped at Miletus and called for the elder brethren of Ephesus and gave them a farewell admonition. [18] And and children, till we were out of the city: and we kneeled down on the shore, and prayed." (Acts 21:5) Paul was arrested at Jerusalem, and was obliged to appeal to Caesar as the last human resort. Hence he was transported to Italy. "And so we went toward Rome. And from thence, when the brethren heard of us, they came to meet us as far as Appii forum, and The three taverns; whom when Paul saw, he thanked God, and took courage."—Acts 28:14, 15.

[17] Paul wrote to the Christians at Corinth, Greece, and his epistle shows that praise and petition were offered to God in the assemblies of the Christians. As to doing this in the assembled presence Paul writes: "Every man praying or prophesying, having his head covered, dishonoureth his head. But every woman that prayeth or prophesieth with her head uncovered, dishonoureth her head." "Let him that speaketh in an unknown tongue, pray that he may interpret. For if I pray in an unknown tongue, my spirit prayeth, but my understanding is unfruitful. . . . Else when thou shalt bless with the spirit, how shall he that occupieth the room of the unlearned, say Amen at thy giving of thanks, seeing he understandeth not what thou sayest? For thou verily givest thanks well, but the other is not edified. Let all things be done decently and in order." (1 Cor. 11:4, 5; 14:13-17, 40) Paul requested their united prayers: "Ye also helping together by prayer for us, that for the gift bestowed upon us by the means of many persons, thanks may be given by many on our behalf." (2 Cor. 1:11; also Phil. 1:19) Writing to the congregation at Ephesus as to proper conduct in company with one another, Paul said: "But fornication, and all uncleanness, or covetousness, let it not be once named among you, as becometh saints; neither filthiness, nor foolish talking, nor jesting, which are not convenient; but rather giving of thanks."—Eph. 5:3, 4.

[18] Now, since the Lord's coming to the temple for judgment in 1918, we are living in a time which, for events, compares with that when Solomon dedicated the first temple at Jerusalem. "And Solomon stood before the altar of the LORD, in the presence of all the congregation of Israel, and spread forth his hands toward heaven: and he said, LORD God of Israel," His lengthy prayer that followed is one of

acquainted with the record of Daniel's course when King Nebuchadnezzar forgot his dream and Daniel and his three companions were menaced with death along with all the wise men of Babylon. "Then Daniel went in, and desired of the king that he would give him time, and that he would shew the king the interpretation. Then Daniel went to his house, and made the thing known to Hananiah, Mishael, and Azariah, his companions: that they would desire mercies of the God of heaven concerning this secret; that Daniel and his fellows should not perish with the rest of the wise men of Babylon. Then was the secret revealed unto Daniel in a night vision." (Dan. 2: 16-19) United prayer!

15 A company of Christians was formed at Antioch, in Syria, and God by his spirit indicated that Saul and Barnabas should be sent forth on missionary work. "And when they had fasted and prayed, and laid their hands on them, they sent them away." (Acts 13: 3) In the course of their pioneer work in foreign lands numerous congregations of believers were organized. "And when they had ordained them elders in every church, and had prayed with fasting, they commended them to the Lord, on whom they believed." (Acts 14: 23) The first Christian convert in Europe was Lydia, whom the apostle Paul found at a prayer gathering of Jewish women in Macedonia. Then the demons hounded Paul and his associates: "and it came to pass, as we went to prayer, a certain damsel possessed with a spirit of divination met us, which brought her masters much gain by soothsaying." Due to developments from this Paul and Silas did not have their prayer assembly at the appointed place, but in prison. "And at midnight Paul and Silas prayed, and sang praises unto God: and the prisoners heard them." Deliverance from prison quickly followed.—Acts 16: 13, 16, 25.

16 On his final journey to Jerusalem Paul stopped at Miletus and called for the elder brethren of Ephesus and gave them a farewell admonition. "And when he had thus spoken, he kneeled down, and prayed with them all." (Acts 20: 36) While the ship was unloading cargo at Tyre, Phoenicia, Paul went ashore and met with the disciples he found there. Their parting is described thus: "And when we had accomplished those days, we departed and went our way: and they all brought us on our way, with wives and children, till we were out of the city: and we kneeled down on the shore, and prayed." Then, after a visit with the brethren at Ptolemais, "we that were of Paul's company departed, and came unto Tyre." Later, when the brethren had learned of Paul's coming, "they came to meet us as far as Appii forum, and The three taverns; whom when Paul saw, he thanked God, and took courage."—Acts 28: 14, 15.

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15. What shows up in the record as to when Paul and Barnabas were sent out as missionaries, and Paul's missionary tour and later his opening work at Philippi in Europe?

16. What likewise took place when Paul parted from the elders of Ephesus and the congregation at Tyre, and when he met the brethren on his way to Rome?

17. (a) What did Paul write to the Corinthians as to prayer in the assembled congregation? (b) What did he request of them, and what did he instruct the Ephesians as to proper conduct in company?

18. What does the record show concerning Solomon's course at the temple dedication, and also King Jehoshaphat's course during the invasion by combined enemies?

spired against Jehovah's witnesses and their companions and are marching to the final assault upon God's organization, as long ago foreshadowed by Jerusalem. Hence our time bears a likeness also to that when the Mount Seir-ites and Moabites and Ammonites combined and marched to the attack on the city where Jehovah put his name. Thereupon King Jehoshaphat gathered all his subjects to the temple at Jerusalem, "to ask help of the LORD." "And Jehoshaphat stood in the congregation of Judah and Jerusalem, in the house of the LORD, before the new court," and in this position he offered earnest supplication as spokesman for all of God's people. (2 Chron. 20:5-12) His entreaty publicly was not religious or hypocritical, but was answered of God. The oncoming enemies never reached the city alive.

THANKSGIVING AT MEALS

19 The study of prayer takes hold on more than public occasions; it also touches domestic circumstances. The question arises, then, Is it religious formalism and sanctimonious hypocrisy to express thanks and petition at a household meal before partaking, or also after? With no sentiment in the matter the unalterable Record shows what is pleasing to God, the Bestower of "every good gift and every perfect gift". Referring expressly to these "latter times", the apostle Paul foretold of the arising of some who would command or lay down the rule to "abstain from meats [foods], which God hath created to be received with thanksgiving of them which believe and know the truth". On this he remarks: "For every creature of God is good, and nothing to be refused, if it be received with thanksgiving: for it is sanctified by the word of God and prayer."—1 Tim. 4:1-5.

20 That Paul's words meant at meals is borne out by the many Scriptural examples. When establishing the Lord's supper with his disciples our Master, who left us an example that we should follow his steps, voiced thanks and blessing upon the bread and wine. (Luke 22:17, 19; Mark 14:22, 23; 1 Cor. 11:23, 24) Before performing the miracles of feeding the five thousand and then the four thousand in the wilderness he gave thanks and asked the divine blessing the same yesterday, and to day, and for ever". —Luke 24:30, 31; Heb. 13:8.

21 The apostle Paul writes us to imitate him as he did Christ Jesus. (1 Cor. 11:1, *Diaglott*) His conduct was in accord with his writings on the subject. The account, at Acts 27:34, 35, does not refer to him as celebrating the Lord's supper, but as eating his ordinary food, aboard the ship before it was wrecked: "I pray you to take some meat. . . . And when he had thus spoken, he took bread, and gave thanks to God in presence of them all: and when he had broken it, he began to eat." Before this Paul wrote the Corinthians and discussed the matter of eating meat that had been bought at Gentile (heathen) shops and that likely had first been presented to heathen gods in acknowledgment. He writes: "Whatsoever is sold in the shambles, that eat, asking no question for conscience sake. For if I by grace be a partaker [of such flesh], why am I evil spoken of for that for which I give thanks? Whether therefore ye eat, or drink, or whatsoever ye do, do all to the glory of God."—1 Cor. 10:25, 30, 31.

22 To Christians at Rome the same apostle wrote this: "He that regardeth the day, regardeth it unto the Lord; and he that regardeth not the day, to the Lord he doth not regard it. He that eateth, eateth to the Lord, for he giveth God thanks; and he that eateth not, to the Lord he eateth not, and giveth God thanks." (Rom. 14:6) Such is in keeping with the good advice: "In every thing give thanks: for this is the will of God in Christ Jesus concerning you." (1 Thess. 5:18) This might well include at the close of a meal also. Where there is a large household or group that eat together at a common table, as at Brooklyn "Bethel", at "Gilead", at London "Bethel", and elsewhere, there could be no more commendable way for orderly dismissing all from the table than for the one at the head of the table to voice to God the gratitude of all as they rise and stand.—1 Cor. 14:26, 40.

POSTURE

23 What is proper posture in which to pray? Religious hypocrites stood in meeting houses and on street corners in order to be observed by the crowds present or passing by. (Matt. 6:5) However, God's

the city where Jehovah put his name. Thereupon King Jehoshaphat gathered all his subjects to the temple at Jerusalem, "to ask help of the LORD." "And Jehoshaphat stood in the congregation of Judah and Jerusalem, in the house of the LORD, before the new court," and in this position he offered earnest supplication as spokesman for all of God's people. (2 Chron. 20:5-12) His entreaty publicly was not religious or hypocritical, but was answered of God. The oncoming enemies never reached the city alive.

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19. What did Paul write Timothy concerning prayer at meals?
20. What do the Scriptures show as to Jesus' procedure at meals?

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POSTURE

[23] What is proper posture in which to pray? Religious hypocrites stood in meeting houses and on street corners in order to be observed by the crowds present or passing by. (Matt. 6:5) However, God's faithful servants are also many times reported as standing while at prayer, as out of respect for the great God seated upon his majestic throne in the heavens. (Dan. 7:9, 10; Rev. 7:9) At the tabernacle Hannah stood praying for the gift of a son. (1 Sam. 1:12, 26) When Solomon at the temple dedication prayed God's blessing, all the congregation of Israel

21. What was Paul's course at mealtime before being shipwrecked? and what did he say respecting flesh sold at heathen butcher shops?
22. What did the apostle write to the Romans as respects eating? and why is the course at Watchtower institutions both before and after meals Scriptural and commendable?
23. What do the Scriptures show as to standing when at prayer?

stood. (2 Chron. 6:3) King Jehoshaphat stood when supplicating the Lord; also the congregation stood. (2 Chron. 20:5-13) Jesus said: "And when ye stand praying, forgive, if ye have ought against any; that your Father also which is in heaven may forgive you your trespasses." (Mark 11:25) He gave the parable of the Pharisee and the publican standing praying in the temple; of whom the publican went away justified rather than the Pharisee.—Luke 18:9-14.

24 The apostle Paul also writes: "I will therefore that men pray every where, lifting up holy hands, without wrath and doubting." (1 Tim. 2:8) This doubtless refers to the posture of certain of God's servants of old of stretching forth their hands heavenward in appeal, as in the cases of Moses, Solomon and Ezra. There is no instruction that the one praying should clasp the hands together, or intertwine the fingers thereof, or to hold his hands, palm and fingers flat against palm and fingers, up before his bosom with his eyes rolled skyward or his head hanging down like a bulrush.—Ex. 9:28, 29; 1 Ki. 8:22, 38; Ezra 9:5; Isa. 58:5.

25 As being suppliants craving favor from the Most High God it is also proper to kneel before him. (Matt. 17:14; Mark 10:17) "O come, let us worship and bow down: let us kneel before the LORD our Maker. For he is our God." (Ps. 95:6, 7) The king of Israel humbled himself to kneel in the public assembly before God. The One greater than Solomon and whom God anointed to be King of the New World's Government also kneeled and fell upon his face in earnest entreaty before Him. (1 Ki. 8:54; 2 Chron. 6:13; Matt. 26:39; Luke 22:41) When Peter asked the Lord to raise faithful Tabitha from the dead he did so on bended knee. And when Paul took leave of the elder brethren from Ephesus and also from the disciples at Tyre they communed with the Lord God on their knees.—Acts 9:40; 20:36; 21:5.

26 When the prophet Elijah prayed that it might rain after the three-and-a-half-year famine, "he cast himself down upon the earth, and put his face between his knees." (1 Ki. 18:42) Paul expressed [illegible] before his God that the conspiring enemies spied upon him and applied the state law that called for casting him to the lions.—Dan. 6:10, 11.

27 Everything considered, then, Jesus' instruction that, "when ye pray, use not vain repetitions, as the heathen do," applies to saying off formulated religious prayers as on a beady rosary or by a prayer wheel, to gain indulgences and religious merit. It does not apply against a repeated presentation of an urgent matter before the Lord. Hence Jesus "spake a parable unto them to this end, that men ought always to pray, and not to faint". The parable was of the persistent widow whose "continual coming" caused the judge to right her cause; to which Jesus added: "And shall not God avenge his own elect, which cry day and night unto him, though he bear long with them? I tell you that he will avenge them speedily. Nevertheless, when the Son of man cometh, shall he find faith on the earth?" Those having this faith will not faint from regular and persistent prayer to the God of vindication.—Luke 18:1-8.

28 Jesus himself, because of the earnestness of his desire, went to his place of prayer three times in the garden of Gethsemane. Each time he offered the same petition; and he was heard in that he feared God. (Matt. 26:39-44; Luke 22:41-44; Heb. 5:7) When Elijah, on Mount Carmel, overlooking the Mediterranean sea, asked the Lord that the great drought might be lifted, he prayed seven times before the "little cloud out of the sea, like a man's hand", was seen. (1 Ki. 18:42-44) Daniel fasted and supplicated the Lord for three weeks on a certain matter before the Lord sent his angel with the prophecy in answer. (Dan. 10:1-12) Paul tells of his own perseverance before the Lord when he writes: "There was given to me a thorn in the flesh, the messenger of Satan to buffet me, lest I should be exalted above measure. For this thing I besought the Lord *thrice*, that it might depart from me. And he said unto me, My grace is sufficient for thee: for my strength is made perfect in weakness." (2 Cor. 12:7-9) Says the psalmist: "As for me, I will call upon God; and the LORD shall save me. Evening, and morning, and at

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[26] When the prophet Elijah prayed that it might rain after the three-and-a-half-year famine, "he cast himself down upon the earth, and put his face between his knees." (1 Ki. 18:42) Paul expressed this attitude of heart, when he said: "For this cause I bow my knees unto the Father of our Lord Jesus Christ, that he would grant you, according to the riches of his glory, to be strengthened with might by his spirit in the inner man." (Eph. 3:14, 16) And that all flesh that lives shall yet come to God in worship and supplication, the apostle says: "For it is written, As I live, saith the Lord, every knee shall bow to me, and every tongue shall confess to God."[3] (Rom. 14:11) It was when Daniel was in this posture heathen do," applies to saying off formulated religious prayers as on a beady rosary or by a prayer wheel, to gain indulgences and religious merit. It does not apply against a repeated presentation of an urgent matter before the Lord. Hence Jesus "spake a parable unto them to this end, that men ought always to pray, and not to faint". The parable was of the persistent widow whose "continual coming" caused the judge to right her cause; to which Jesus added: "And shall not God avenge his own elect, which cry day and night unto him, though he bear long with them? I tell you that he will avenge them speedily. Nevertheless, when the Son of man cometh, shall he find faith on the earth?" Those having this faith will not faint from regular and persistent prayer to the God of vindication.—Luke 18:1-8.

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[29] Prayer in a man-made oratory or religious building is no more productive of results than wh offered anywhere else on earth. Christians are required to go to such places to lay their reque

24. What do the Scriptures state regarding the position of the hands and arms on occasions of prayer?
25. What is shown by Solomon, Jesus, Peter and Paul as to kneeling at prayer?
26. What posture did Elijah and Daniel take, and what did Paul write to correspond therewith?
27. To what, then, do Jesus' words concerning vain repetitions apply, how does his parable on the persistent widow and the judge prove
28. How did like persistence show in the cases of Jesus, Elijah, D Paul, and the psalmist?
29. Offering prayer at what place is acceptable to God?

and thanksgiving before Jehovah God. Calling upon him in praise and petition is acceptable to him in Jesus' name wherever done and under whatever circumstances by the sincere and devoted heart.

30 Nehemiah was grieved at heart over the broken-down and defenseless condition of Jerusalem afar off in his native land. When the king of Persia asked him why, improperly, he was sad of face in the king's presence while serving him wine, Nehemiah was "very sore afraid". He explained, and "then the king said unto me, For what dost thou make request? So I prayed to the God of heaven". (Neh. 2:4) Nehemiah prayed in his heart, unheard by King Artaxerxes. But God heard and gave Nehemiah favor in the king's sight, and in due time the walls of Jerusalem were built under Nehemiah's supervision. Likewise, today, the call for prayer may be instantaneous, where one may not say it aloud or in an attitude befitting other occasions. The servant of the Most High God may be engaged in His service from house to house, meeting unabating opposition or unresponsiveness; he may be threatened with violence as he persists in giving the witness. Then, whether he be at a doorstep needing heavenly grace, or be walking on the street to his field work and feeling the need of wisdom from above and special guidance and protection, he may silently within his heart lift his requests to God. The Lord, who knows what is in the heart of man, can and will hear, and the good hand of the Lord will be upon his servant, as it was upon Nehemiah.

31 We may be in the thick of the fight for Christian liberty, in a courtroom, before police magistrate, or in the presence of a gathering mob of demonized religionists. By then watching unto prayer and communing without uttered speech with our Helper on high, we can obtain the desired succor, as did King Jehoshaphat under assault by the Syrians (1 Ki. 22:32, 33); and as did King Asa when facing a host of one million Ethiopians. "Asa cried unto the LORD his God, and said, LORD, it is nothing with thee to help, whether with many, or with them that have no power: help us, O LORD our God; for we rest on thee, and in thy name we go against this multitude. O thy name [picturing God's throne]: then hear thou in heaven their prayer and their supplication, and maintain their cause."—1 Ki. 8:44, 45.

32 The Lord's servants should watch for just such emergencies and be alert and instant to exercise their privilege toward Him, to maintain His cause. Paul describes the spiritual armor of God which those fighting for the New World interests must now put on in their conflict with the demon forces, "spiritual wickedness in high places." Besides taking the defensive armor and the offensive weapon, "the sword of the spirit, which is the word of God," the apostle shows what further is needed for successful fighting, saying: "Praying always with all prayer and supplication in the spirit, and watching thereunto with all perseverance and supplication for all saints." (Eph. 6:11-18, *margin*) Good soldiers of Christ cannot carry on the struggle in their own strength without calls for higher aid.

HOW MAY "MEN OF GOOD-WILL" PRAY?

33 God's capital organization, called *Zion*, is the heavenly Jerusalem and is the Theocratic Government of the New World of righteousness. Christ Jesus represents Jehovah as King in that Government, and his installation in the throne in A.D. 1914 marked the beginning of the New World Government. It marked also the beginning of the "last days" of Satan's old-world organization. There the prophecy of Isaiah 2:2, 3 began to come to pass: "And it shall come to pass in the last days, that the mountain of the LORD's house shall be established in the top of the mountains, and shall be exalted above the hills; and all nations shall flow unto it. And many people shall go and say, Come ye, and let us go up to the mountain of the LORD, to the house of the God of Jacob; and he will teach us of his ways, and we will walk in his paths: for out of Zion shall go forth the law, and the word of the LORD from Jerusalem." As to the exercise of its power earthward the apostle writes: "And I John saw the holy city, new Jerusalem, coming down from God out of heaven, prepared as a bride adorned for her husband. And I heard a great voice out of heaven, saying, Behold, the tabernacle of God is with men, and he will dwell

Nehemiah was grieved at heart over the broken down and defenseless condition of Jerusalem afar off in his native land. When the king of Persia asked him why, improperly, he was sad of face in the king's presence while serving him wine, Nehemiah was "very sore afraid". He explained, and "then the king said unto me, For what dost thou make request? So I prayed to the God of heaven". (Neh. 2:4) Nehemiah prayed in his heart, unheard by King Artaxerxes. But God heard and gave Nehemiah favor in the king's sight, and in due time the walls of Jerusalem were built under Nehemiah's supervision. Likewise, today, the call for prayer may be instantaneous, where one may not say it aloud or in an attitude befitting other occasions. The servant of the Most High God may be engaged in His service from house to house, meeting unabating opposition or unresponsiveness; he may be threatened with violence as he persists in giving the witness. Then, whether he be at a doorstep needing heavenly grace, or be walking on the street to his field work and feeling the need of wisdom from above and special guidance and protection, he may silently within his heart lift his requests to God. The Lord, who knows what is in the heart of man, can and will hear, and the good hand of the Lord will be upon his servant, as it was upon Nehemiah.

31 We may be in the thick of the fight for Christian liberty, in a courtroom, before police magistrate, or in the presence of a gathering mob of demonized religionists. By then watching unto prayer and communing without uttered speech with our Helper on high, we can obtain the desired succor, as did King Jehoshaphat under assault by the Syrians (1 Ki. 22:32, 33); and as did King Asa when facing a host of one million Ethiopians. "Asa cried unto the LORD his God, and said, LORD, it is nothing with thee to help, whether with many, or with them that have no power: help us, O LORD our God; for we rest on thee, and in thy name we go against this multitude. O LORD, thou art our God; let not man prevail against thee. So the LORD smote the Ethiopians before Asa, and before Judah." (2 Chron. 14:9-13) Regarding such very emergencies King Solomon said to God at the temple dedication: "If thy people go out to battle against their enemy, whithersoever thou shalt send them, and shall pray unto the LORD toward the city which thou hast chosen [picturing God's kingdom], and toward the house that I have built for

30. Under what circumstances, and how, did Nehemiah offer prayer before King Artaxerxes? and under what pressing circumstances may Jehovah's field publishers pray in like manner?

31. What may be Scripturally said as to the manner and fitness of prayer in the thick of Christian warfare?

privilege toward Him, to maintain His cause. Paul describes the spiritual armor of God which those fighting for the New World interests must now put on in their conflict with the demon forces, "spiritual wickedness in high places." Besides taking the defensive armor and the offensive weapon, "the sword of the spirit, which is the word of God," the apostle shows what further is needed for successful fighting, saying: "Praying always with all prayer and supplication in the spirit, and watching thereunto with all perseverance and supplication for all saints." (Eph. 6:11-18, *margin*) Good soldiers of Christ cannot carry on the struggle in their own strength without calls for higher aid.

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34 Since 1918, when God's Messenger, Christ Jesus, came to the temple for judgment of His house and of the nations, the prophecy of Habakkuk 2:20 applies: "And Jehovah is in His holy temple, be

32. What did Paul associate with the spiritual armor for the fight, and why?

33. When and how did the "last days" begin, and what did Isaiah and the apostle John say as to the Government then in force and the action of "people of good-will"?

34. (a) Since when is Isaiah 2:2, 3 undergoing fulfillment, and for what specific purpose do the "many people" go up to the Lord's mountain? (b) What does God through Isaiah say as to whether such ones may pray to Jehovah?

silent before him, all the earth!" (*Young*) Since then the "many people" and "all nations" have been flowing unto Jehovah's Theocratic Government, Zion, the "new Jerusalem", desiring to walk in His paths according to His law. Those thus going up to his house of worship are composed of the "men of good-will" out of all nations and peoples and who learn of the setting up of his Righteous Government. They desire to come into harmony with it and to worship the true and living God through his King, Christ Jesus. The question arises: These are not of God's "little flock", the spiritual Israelites in the Kingdom covenant, but are his "other sheep", whose only hope is that of everlasting life on earth. May these, then, pray to Him? The answer of Jehovah God says, at Isaiah 56:6, 7: "Also the sons of the stranger, that join themselves to the LORD, to serve him, and to love the name of the LORD, to be his servants, every one that keepeth the sabbath from polluting it, and taketh hold of my covenant; even them will I bring to my holy mountain, and make them joyful in my house of prayer: their burnt offerings and their sacrifices shall be accepted upon mine altar; for mine house shall be called an house of prayer for all people."—Matt. 21:13; Mark 11:17.

35 Such ones are pictured by the "stranger" whom King Solomon mentioned at the temple dedication, to show the extensiveness that Jehovah's worship would have: "Moreover, concerning a stranger that is not of thy people Israel, but cometh out of a far country for thy name's sake; (for they shall hear of thy great name [through Jehovah's witnesses], and of thy strong hand, and of thy stretched out arm:) when he shall come and pray toward this house; hear thou in heaven thy dwelling place, and do according to all that the stranger calleth to thee for: that all people of the earth may know thy name, to fear thee, as do thy people Israel; and that they may know that this house, which I have builded, is called by thy name." (1 Ki. 8:41-43) Zechariah, who prophesied in the days when the typical temple was rebuilt at Jerusalem, writes also concerning the above class: "It shall yet come to pass, that there shall come people, and the inhabitants of many cities: and the inhabitants of one city shall go to another, saying, Let us go speedily to pray before the LORD, and to seek the LORD of hosts: I will go also. Yea, many people and strong nations shall come to seek the LORD of hosts in Jerusalem, and to pray before the LORD. Thus saith the LORD of hosts; In those days it shall come to pass, that ten men shall take hold out of all languages of the nations, even shall take hold of the skirt of him that is a Jew, saying, We will go with you: for we have heard that God is with you [spiritual Israelites]."—Zech. 8:20-23; Isa. 19:19-22, 25.

36 The very purpose of this "stranger" class in coming to this temple or house of prayer for all nations is that they may there pray in order to be guided and strengthened to do His will. The apostle John, after having a vision of the completed company of 144,000 spiritual Israelites, foresaw also this great "stranger" class of good-will: "After this I beheld, and, lo, a great multitude, which no man could number, of all nations, and kindreds, and people, and tongues, stood before the throne, and before the Lamb, clothed with white robes, and palms in their hands; and cried with a loud voice, saying, Salvation to our God which sitteth upon the throne, and unto the Lamb. . . . These are they which came out of great tribulation, and have washed their robes, and made them white in the blood of the Lamb. Therefore are they before the throne of God, and serve him day and night in his temple: and he that sitteth on the throne shall dwell among them." (Rev. 7:9, 10, 14, 15) The good-will "strangers" or "other sheep" that shall compose this "great multitude" of Armageddon survivors attribute their salvation to no man-made national government or emblem thereof. They ascribe it to God on his heavenly throne and also to his sacrificial Victim, Christ Jesus, who is on the throne with Jehovah God and reigning as his Theocratic Representative or King. To have their prayers accepted of these "Higher Powers", they must obey the rules concerning prayer, that is, to pray with faith in God as existent and as the Rewarder of all seeking him. They must also pray in the name of his Son, the Lamb, as their Ransomer. The above scripture shows that they do so.

37 Such "other sheep" are not of the "little flock" of spiritual sons of God, and may they now pray to Jehovah God as "our Father"? The evident answer from the Scriptures is Yes. Think of the famished Egyptians of old who came to Pharaoh's prime minister Joseph, asking him to buy them and all their earthly possessions that they might obtain life-sustaining bread. So these earthly "other sheep" now

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35. How did Solomon refer to such ones in his temple-dedication prayer? and what did Zechariah prophesy as to their coming and their purpose?

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36. What vision does John describe concerning that class, and what must they do to have their prayers accepted by the Higher Powers?

37. As to whether these may address Jehovah God as "our Father", what does the conduct of the famished Egyptians toward Joseph show as a preliminary move?

name *Zaphnath-paaneah,* that was assigned to Joseph of old. (Gen. 41:45, 55, 56; 47:18-21) Concerning his present-day counterpart it was long ago foretold: "And the government shall be upon his shoulder: and his name shall be called Wonderful Counsellor, The mighty God, The everlasting Father, The Prince of Peace." (Isa. 9:6) Now, by receiving of the life-giving spiritual food the "other sheep" class come into line to become the children of "The everlasting Father", Christ Jesus, when he applies the merit of his ransom sacrifice in their behalf during his thousand-year reign after Armageddon. This was pictured in the atonement-day sacrifices of Israel.—Lev. 16:9, 15.

38 Christ Jesus himself received life and immortality from the eternal "Fountain of Life", Jehovah God. (Ps. 36:9) Jesus therefore addressed Him as "Father" and spoke of Him as "my Father" and "my God". Since Jesus becomes the father of the faithful "other sheep" that form the "great multitude", and since his own Father is Jehovah, it is perfectly Scriptural for the persons of good-will, the consecrated "other sheep", to address Jehovah as "our Father" when offering worship and prayer to him. In Scripture a grandson regularly spoke to his father's father (or grandparent) as "father", and all forefathers before one's immediate parent were called "fathers". (Ex. 3:6; 15:2; Deut. 26:5; 1 Ki. 15:11, 24; Isa. 51:2; 63:16; 64:8; Ps. 45:16; John 8:56) Jehovah is likewise the great "First Father" to all them that acquire everlasting life through his Son Christ Jesus.

39 Furthermore, the "other sheep" who now abandon the riotous living with the famine-stricken world and who come out from under the service of the conscienceless "swine owner" of this world were foretold in Jesus' parable and were represented therein as the "prodigal son". When the boy returned home and was met first by the one whose house he had abandoned he addressed him, saying: *"Father,* I have sinned against heaven, and in thy sight, and am no more worthy to be called thy son." But the man refused to disown the suppliant boy and called for a feast, saying: "For this my *son* was dead, and is alive again; he was lost, and is found." Then to

FOR ALL IN AUTHORITY

40 For what, then, shall the remnant of God's "little flock" and also their brethren of the "other sheep" pray? Prayers for selfish reasons and purposes and not to God's glory could receive no answer from him; as it is written to the selfish: "Ye ask, and receive not, because ye ask amiss, that ye may consume it upon your lusts [your pleasures]." (Jas. 4:3, *margin*) If our will is conformed to and submissive to His will, then we shall ask what we will and it will be granted to us in due time. The New World is at hand; and its everlasting Government is already ruling amidst mighty enemies. The psalmist's question now fits: "Why have nations tumultuously assembled? and do peoples meditate vanity? Station themselves do kings of the earth, and princes have been united together, against Jehovah, and against His Messiah." (Ps. 2:1, 2, *Young*) Shall prayer be made for such ruling powers of earth? How could such prayer be approved by Jehovah and be in favor of his Messiah, Christ, when such rulers are resisting God's invincible power and message and are saying: "Let us break their bands asunder, and cast away their cords from us"? Instead of God's hearing prayers for such worldly opposers, the psalmist says: "He that sitteth in the heavens shall laugh: the Lord shall have them in derision. Yet have I set my king upon my holy hill of Zion."—Ps. 2:3, 4, 6.

41 Who, then, are the ones to be prayed for according to the apostle's exhortation to Christians? It is written, at 1 Timothy 2:1-6: "I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; for kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God our Saviour; who will have all men to be saved, and to come unto the knowledge of the truth. For there is one God, and one mediator between God and men, the man Christ Jesus; who gave himself a ransom for all, to be testified in due time."

42 There can be no proper prayer rendered for the salvation of those doomed to destruction at Armageddon because of their sin unto death. (Ps. 109:1-7; Jer. 7:16; 11:14; Prov. 28:9; 1 John 5:16, 17) The

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38. Why because of such relationship to Christ Jesus may they address Jehovah God as "Father"?
39. What expressions in the parable of the prodigal son show the seemliness of their prayer to God as "Father"?

upon your lusts [your pleasures]." (Jas. 4:3, *margin*) If our will is conformed to and submissive to His will, then we shall ask what we will and it will be granted to us in due time. The New World is at hand, and its everlasting Government is already ruling amidst mighty enemies. The psalmist's question now fits: "Why have nations tumultuously assembled? and do peoples meditate vanity? Station themselves do kings of the earth, and princes have been united together, against Jehovah, and against His Messiah." (Ps. 2:1, 2, *Young*) Shall prayer be made for such ruling powers of earth? How could such prayer be approved by Jehovah and be in favor of his Messiah, Christ, when such rulers are resisting God's invincible power and message and are saying: "Let us break their bands asunder, and cast away their cords from us"? Instead of God's hearing prayers for such worldly opposers, the psalmist says: "He that sitteth in the heavens shall laugh: the Lord shall have them in derision. Yet have I set my king upon my holy hill of Zion."—Ps. 2:3, 4, 6.

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40. (a) Under what conditions may we ask what we will and have God grant it? (b) What is the position of earth's ruling powers toward the New World Government, and how does God's attitude toward them show whether to pray for them?
41. What is Paul's exhortation as to prayer, at 1 Timothy 2:1-6?
42. For what, then, was the apostle exhorting us to pray, and why?

behalf. Those who are in authority or in high station within the visible part of the organization need our prayers and supplications and intercessions to God, that they may conduct themselves in favor of the peace and spiritual health and prosperity of "all men", or Christians in the flesh, in the organization.

43 Such prayer is also for the honor and glory of God and the advancement of his Kingdom interests on earth. Hence it is "good and acceptable" in God's sight to offer such prayers and supplications. Psalm 122 agrees with this view, in that it says: "Jerusalem is builded as a city that is compact together: whither the tribes go up, the tribes of the LORD, unto the testimony of Israel, to give thanks unto the name of the LORD. For there are set thrones of judgment, the thrones of the house of David. Pray for the peace of Jerusalem: they shall prosper that love thee. Peace be within thy walls, and prosperity within thy palaces. For my brethren and companions' sake, I will now say, Peace be within thee. Because of the house of the LORD our God I will seek thy good."

44 A prayer for the king, Jehovah's king, is written at Psalm 72: 1, and it is prophetic of the prayer of God's people of today: "Give the king thy judgments, O God, and thy righteousness unto the king's son." David prayed for his son, the king of the typical Theocracy over Israel (1 Chron. 29: 10, 19); and that prayer would now be offered up for the King of the true and lasting Theocratic Government. Psalm 72: 15, 17 says further concerning the King, the Son of the great "King of Eternity": "And he shall live, and to him shall be given of the gold of Sheba: prayer also shall be made for him continually; and daily shall he be praised. His name shall endure for ever: his name shall be continued as long as the sun: and men shall be blessed in him: all nations [represented in the 'other sheep'] shall call him blessed."

45 Jehovah God is the "King eternal" and Christ Jesus is his anointed King of The Theocracy of the New World. As we look forward to the vindication of Jehovah's name by his King Christ Jesus at the battle of Armageddon, we continue to pray for Kings, saying: "Thy kingdom come. Thy will be done in earth, as it is in heaven." We recognize the Kingdom as set up in A.D. 1914; and we prayerfully join all of God's organization in heaven and in earth in saying: "The kingdom of the world is become the kingdom of our Lord [Jehovah], and of his Christ: and he shall reign for ever and ever. . . . We give thee thanks, O Lord God, the Almighty, who art and who wast; because thou hast taken thy great power, and didst reign." (Rev. 11: 15, 17, *Am. Rev. Ver.*) "And every creature which is in heaven, and on the earth, and under the earth, and such as are in the sea, and all that are in them, heard I saying, Blessing, and honour, and glory, and power, be unto him that sitteth upon the throne, and unto the Lamb for ever and ever."—Rev. 5: 13, 14.

46 The "other sheep" who will form the "great multitude" cry out: "Salvation to our God which sifteth upon the throne, and unto the Lamb"; and the faithful remnant of the 144,000 join in their praise and supplication, saying: "Amen: Blessing, and glory, and wisdom, and thanksgiving, and honour, and power, and might, be unto our God for ever and ever. Amen."—Rev. 7: 10, 12.

43. Why is such prayer acceptable and good in God's sight, and with what Psalm does this view agree?
44. What does the psalmist David say as to offering up prayer for the king's son, in a prophetic sense?
45. How, then, do we pray "for kings", and what does The Revelation show on the matter?
46. What do those in line for the "great multitude" prayerfully cry out, and with what prayer do the faithful remnant join them?

CALEB, BOLD FIGHTER FOR THEOCRACY

"THE righteous are bold as a lion," says Proverbs 28: 1. Or, according to *Rotherham*, "the righteous like a lion are confident." They have faith, confidently rely upon God's word, and boldly go forward in the face of danger to meet the Lord's service requirements. Centuries ago a servant of Jehovah lived on the earth who well exemplified Godly boldness. That servant's name was the name of Caleb's grandfather was "Kenaz". The Scriptures disclose that he had a brother by that name; and close association with that brother may have caused him to be called the "Kenezite". (Josh. 15: 17; Judg. 1: 13) It is possible that Caleb's father, Jephunneh, was surnamed "Hur" and was thus the grandfather of the expert craftsman Bezaleel. (See Exodus 17: 10; 24: 14; 31: 2; 35: 30;

men", or Christians in the flesh, in the organization.

43 Such prayer is also for the honor and glory of God and the advancement of his Kingdom interests on earth. Hence it is "good and acceptable" in God's sight to offer such prayers and supplications. Psalm 122 agrees with this view, in that it says: "Jerusalem is builded as a city that is compact together; whither the tribes go up, the tribes of the LORD, unto the testimony of Israel, to give thanks unto the name of the LORD. For there are set thrones of judgment, the thrones of the house of David. Pray for the peace of Jerusalem: they shall prosper that love thee. Peace be within thy walls, and prosperity within thy palaces. For my brethren and companions' sake, I will now say, Peace be within thee. Because of the house of the LORD our God I will seek thy good."

44 A prayer for the king, Jehovah's king, is written at Psalm 72:1, and it is prophetic of the prayer of God's people of today: "Give the king thy judgments, O God, and thy righteousness unto the king's son." David prayed for his son, the king of the typical Theocracy over Israel (1 Chron. 29:10, 19); and that prayer would now be offered up for the King of the true and lasting Theocratic Government. Psalm 72:15, 17 says further concerning the King, the Son of the great "King of Eternity": "And he shall live, and to him shall be given of the gold of Sheba: prayer also shall be made for him continually; and Jesus is his anointed King of The Theocracy of the New World. As we look forward to the vindication of Jehovah's name by his King Christ Jesus at the battle of Armageddon, we continue to pray for Kings, saying: "Thy kingdom come. Thy will be done in earth, as it is in heaven." We recognize the Kingdom as set up in A.D. 1914; and we prayerfully join all of God's organization in heaven and in earth in saying: "The kingdom of the world is become the kingdom of our Lord [Jehovah], and of his Christ: and he shall reign for ever and ever.... We give thee thanks, O Lord God, the Almighty, who art and who wast; because thou hast taken thy great power, and didst reign." (Rev. 11:15, 17, *Am. Rev. Ver.*) "And every creature which is in heaven, and on the earth, and under the earth, and such as are in the sea, and all that are in them, heard I saying, Blessing, and honour, and glory, and power, be unto him that sitteth upon the throne, and unto the Lamb for ever and ever."—Rev. 5:13, 14.

46 The "other sheep" who will form the "great multitude" cry out: "Salvation to our God which sitteth upon the throne, and unto the Lamb"; and the faithful remnant of the 144,000 join in their praise and supplication, saying: "Amen: Blessing, and glory, and wisdom, and thanksgiving, and honour, and power, and might, be unto our God for ever and ever. Amen."—Rev. 7:10, 12.

43. Why is such prayer acceptable and good in God's sight, and with what Psalm does this view agree?
44. What does the psalmist David say as to offering up prayer for the king's son, in a prophetic sense?
45. How, then, do we pray "for kings", and what does The Revelation show on the matter?
46. What do those in line for the "great multitude" prayerfully cry out, and with what prayer do the faithful remnant join them?

CALEB, BOLD FIGHTER FOR THEOCRACY

"THE righteous are bold as a lion," says Proverbs 28:1. Or, according to *Rotherham*, "the righteous like a lion are confident." They have faith, confidently rely upon God's word, and boldly go forward in the face of danger to meet the Lord's service requirements. Centuries ago a servant of Jehovah lived on the earth who well exemplified Godly boldness. That servant's name was "Caleb". The name even means "bold".

There were several Bible characters whose names were Caleb. The one we are here concerned with is Caleb the son of Jephunneh. He was born in the year 1554 B.C. The opinion of Bible scholars differs sharply as to his ancestry. Many contend that, because he is referred to as the "son of Jephunneh the Kenezite", he was a foreigner and only adopted into the tribe of Judah, and was in reality a descendant of Esau. (Josh. 14:14) The weight of evidence, however, seems to indicate that Caleb was a natural Judean, and that the patronymic "Kenezite" is derived from a Hebrew ancestor. Some students hold that the name of Caleb's grandfather was "Kenaz". The Scriptures disclose that he had a brother by that name; and close association with that brother may have caused him to be called the "Kenezite". (Josh. 15:17; Judg. 1:13) It is possible that Caleb's father, Jephunneh, was surnamed "Hur" and was thus the grandfather of the expert craftsman Bezaleel. (See Exodus 17:10; 24:14; 31:2; 35:30; 1 Chronicles 2:19, 20, 50.)

The first appearance Caleb makes in the Divine Record is when Moses, at the command of the Lord, sends spies into the land of Canaan. It was the second year after the exodus from Egypt, and the Israelites were camped at Kadesh-barnea in the wilderness of Paran. They were poised at the southern border of the Promised Land. Reconnoitering was in order, so the scouting party was organized. Caleb, a man of forty years and a family chieftain in the tribe of Judah, was designated to represent that tribe.—Num. 13:1-3, 6; Josh. 14:7.

As Moses gives the final instructions to the twelve spies,

Caleb listens intently: "Get you up this way into the south country, and go up into the mountain: and see the land, what it is; and the people that dwelleth therein, whether they be strong or weak, few or many; and what the land is that they dwell in, whether it be good or bad; and what cities they be that they dwell in, whether in tents, or in strong holds; and what the land is, whether it be fat or lean, whether there be wood therein, or not. And be ye of good courage, and bring of the fruit of the land." (Num. 13:17-20, *margin*) The men started their perilous journey into the enemy land. For forty days they searched out the land. At Hebron they saw giants; at the brook or valley of Eshcol they noted the productivity of the land, and brought back some of the fruit thereof, one cluster of grapes being so heavy that it was borne between two men upon a staff. —Num. 13:21-25.

To Moses and Aaron and all the Israelites they gave their report: "We came unto the land whither thou sentest us, and surely it floweth with milk and honey; and this is the fruit of it. Nevertheless the people be strong that dwell in the land, and the cities are walled, and very great: and moreover we saw the children of Anak there." Caleb silenced the fearful ones, and cried, "Let us go up at once, and possess it; for we are well able to overcome it." But ten of the spies dissented, saying, "They are stronger than we." They were terrified by the giants they had seen, and said they were as grasshoppers in comparison. (Num. 13:26-33) In the parlance of this world, those men would be called morale weakeners.—Deut. 1:28, *margin*.

When Caleb and the other faithful spy, Joshua, fervently pleaded with the Israelites to get them to enter the Promised Land, saying, "Jehovah is with us: fear them not," the rebellious people took up stones against them. Jehovah intervened. The ten men who brought the evil report were destroyed. Upon the remainder of the murmurers the Almighty pronounced sentence: "Ye shall not come into the land, concerning which I sware to make you dwell therein, save Caleb the son of Jephunneh, and Joshua the son of Nun. . . . But as for you, your carcases, they shall fall in this wilderness. And your children shall wander in the wilderness forty years, and bear your whoredoms, until your carcases be wasted in the wilderness. After the number of the days in which ye searched the land, even forty days, each day for a year, shall ye bear your iniquities, even forty years."—Num. 14:30-34.

It is not until the fortieth year of that sentence that Caleb is again mentioned. It is on the plains of Moab. Moses and Eleazar the high priest had numbered the men able to save Joshua and Caleb. (Num. 26:64, 65; 32:11, 12) And so it was.

It is also interesting to note that when Moses and Aaron numbered the people at Sinai, not long before they refused to enter Canaan and fight because their enemies seemed stronger than they, there were 603,550 men of war. (Num. 1:45, 46) At the second numbering, by Moses and Eleazar, there were less, namely, 601,730. (Num. 26:51) Yet this smaller army entered and possessed the land, despite their enemies. This shows that Caleb was not being rash on the earlier occasion when he cried out for the Israelites to come to grips with the enemy. Rather he was manifesting faith in Jehovah, confident that He would fight for His people and give the victory in fulfillment of His promise, and that regardless of the giant size of the enemies or their number. He was merely being bold, within the Scriptural meaning of the term. And though now, 39 years later, he is much older, he still has the same spirit of boldness.

With the fighting men of Israel he crossed the Jordan and bore his full burden in the ensuing battles. After six years of warfare, there yet remained much land to be possessed. Notwithstanding that fact, Jehovah assured the Israelites, "Them will I drive out," and instructed that the land now be divided by lot among the tribes. (Josh. 13:1-7) Caleb, bold, seasoned fighter, veteran of many battles, steps before Joshua and says: "Forty years old was I when Moses the servant of the LORD sent me from Kadesh-barnea to espy out the land; and I brought him word again as it was in mine heart. . . . And Moses sware on that day, saying, Surely the land whereon thy feet have trodden shall be thine inheritance. . . . The LORD hath kept me alive, as he said, these forty and five years, . . . and now, lo, I am this day fourscore and five years old. As yet I am as strong this day as I was in the day that Moses sent me: as my strength was then, even so is my strength now, for war, both to go out, and to come in. Now therefore give me this mountain, whereof the LORD spake in that day; for thou heardest in that day how the Anakims were there, and that the cities were great and fenced: if so be the LORD will be with me, then I shall be able to drive them out." (Josh. 14:6-15) And so he did.

No picking of an easy territory by this witness of Jehovah! The toughest assignment, the land infested with giants, was none too hard for this 85-year-old warrior, if Jehovah would be with him. An account of the victory appears at Joshua 15:13-19 and Judges 1:9-15, 20. The bullying monsters inhabiting Hebron were slain, and Othniel, the son of Caleb's younger brother and a judge in Israel for

lean, whether there be wood therein, or not. And be ye of good courage, and bring of the fruit of the land." (Num. 13:17-20, *margin*) The men started their perilous journey into the enemy land. For forty days they searched out the land. At Hebron they saw giants; at the brook or valley of Eshcol they noted the productivity of the land, and brought back some of the fruit thereof, one cluster of grapes being so heavy that it was borne between two men upon a staff. —Num. 13:21-25.

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It is not until the fortieth year of that sentence that Caleb is again mentioned. It is on the plains of Moab. Moses and Eleazar the high priest had numbered the men able to go to war, those from twenty years old and upward. Shortly thereafter Jehovah named the men, one prince or ruler from each tribe, who would be entrusted with the division of the Promised Land among the tribes. Eleazar and Joshua are named, and Caleb is appointed from the tribe of Judah. The other appointees were comparatively young men; Caleb was seventy-nine. Nevertheless, Caleb was as "young" and vigorous as any of them in following Jehovah, and his faithfulness was rewarded by this privilege.—Num. 34:17-29.

Jehovah's pronounced judgment had decreed that none of the men that had come up out of Egypt, from twenty years old and upward, that had been numbered in Sinai by Moses and Aaron, should enter the land of Canaan, 1:45, 46) At the second numbering, by Moses and Eleazar, there were less, namely, 601,730. (Num. 26:51) Yet this smaller army entered and possessed the land, despite their enemies. This shows that Caleb was not being rash on the earlier occasion when he cried out for the Israelites to come to grips with the enemy. Rather he was manifesting faith in Jehovah, confident that He would fight for His people and give the victory in fulfillment of His promise, and that regardless of the giant size of the enemies or their number. He was merely being bold, within the Scriptural meaning of the term. And though now, 39 years later, he is much older, he still has the same spirit of boldness.

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After the capture of these cities, no further mention is made of Caleb, nor is the time of his death recorded. In 1 Chronicles the names of his children are listed.—2:46, 48, 49; 4:15.

As previously mentioned, Caleb was 79 when the covenant of faithfulness was made with the Israelites on the plains of Moab, just prior to their entrance into the Promised Land. Though much older than the other Israelites, with the exception of Joshua, and possibly Eleazar, he

was counted with the younger men, because of his faithfulness. He well represented, at this point, that class of faithful ones also foreshadowed by Mordecai and Naomi, manifested at the time of the Lord's coming to the temple for judgment in A.D. 1918. In these present days of Theocratic warfare against the demons and their fools, Jehovah's witnesses must be valiant. And though the little band of witnesses on the earth may appear as mere grasshoppers in the sight of the "giants" of Satan's organization, and particularly the totalitarian monstrosity he raises up, God's people will not hold back in fear. They will push the battle to the gate. They will remember that Jehovah is with them, and in his sight the mightiest ones of Satan's hordes are as grassnoppers.—Isa. 40:22.

So today Jehovah's witnesses will go forward, "bold in our God" and "bold in Christ". (1 Thess. 2:2; Philem. 8) Boldness in Theocratic service is all-essential now. Why? First John 4:17 answers: "Herein is our love made perfect, that we may have boldness in the day of judgment." Caleb was blessed because "he wholly followed the LORD God of Israel". (Josh. 14:14) Let Jehovah's servants at this time do likewise; and give a good report in service.

THREE ELDERS SURVIVE TO CROSS JORDAN

IN OUR article of August 1 entitled "Victory by Faith," paragraph 35 stated: "The older generation of the Israelites under Moses entered not into the Promised Land of Palestine because of their sin of unbelief toward Jehovah's word. . . . Three elders having faith did enter into the Promised Land of milk and honey, and one of these was Moses' successor, Joshua." Who, then, were the other two?

At Numbers 14:30, Jehovah God declared his judgment against the twelve tribes of Israel for believing the faith-cracking report of ten of the twelve spies back from Canaan and said: "Doubtless ye shall not come into the land, concerning which I sware to make you dwell therein, save Caleb the son of Jephunneh, and Joshua the son of Nun." These words have been understood by many to mean that no others besides Joshua and Caleb above the age of twenty years would survive the protracted wilderness journey and cross Jordan river into the Promised Land. If that were so, then both Moses and Aaron the high priest were on this occasion notified that they would not be preserved to enter Canaan. To the contrary, Moses and Aaron both entertained hopes of entering until they exceeded themselves, about 37 years later, when water was miraculously brought forth from a rock. Then Jehovah said to Moses and Aaron: "Because ye believed me not, to sanctify me in the eyes of the children of Israel, therefore ye shall not bring this congregation into the land which I have given them." (Num. 20:12) Hence Aaron's son Eleazar was the third elder that was favored to cross Jordan with Joshua and Caleb.

Moses, Aaron and Eleazar were of the tribe of Levi, and this tribe was separated from the other tribes, and was not represented by any of the twelve spies sent out. (Num. 13:4-16) Due to their ministry at God's tabernacle the Levites were not numbered for war-draft purposes. (Num. 1:47-54) Hence the tribe of Levi were not included in the penalty pronounced on the twelve other tribes for rebellion was apparently Aaron's third son and was now married and had a son, Phinehas. (Ex. 6:20, 23, 25) Aaron his father was three years older than Moses, and hence 83 years old when the Israelites left Egypt and came to Mount Sinai; hence old enough to have mature sons.

At the beginning of the second year after leaving Egypt the four sons of Aaron were ministering with him at the tabernacle. After two sons died, "Moses spake unto Aaron, and unto Eleazar and unto Ithamar, his sons that were left, Take the meat offering that remaineth of the offerings of the LORD made by fire, . . . and ye shall eat it in the holy place, because it is thy due, and thy sons' due." (Lev. 10:12, 13; 9:4) To render such priestly service Eleazar had to be of the required age, as shown by God's law respecting the Levites: "From thirty years old and upward even until fifty years old, all that enter into the host, to do the work of the tabernacle of the congregation." Five years of probation must precede full service: "This is it that belongeth unto the Levites: from twenty and five years old and upward they shall go in to wait upon the service of the tabernacle of the congregation." (Num. 4:3; 8:24) Hence Eleazar must have been above twenty years of age at the time of leaving Egypt. Less than a year later, the tabernacle was set up at Mount Sinai, and shortly afterward God said to Moses: "And Eleazar the son of Aaron the priest shall be chief over the chief of the Levites, and have the oversight of them that keep the charge of the sanctuary." (Num. 3:32) This appointment required Eleazar to be above twenty years, yes, thirty years or more. In the last year of the 40-year wilderness journey Eleazar's son Phinehas appears to have been engaged in tabernacle service and hence of the age of 25 years or more. (Numbers 25) This argues that Eleazar was past 60 years.

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At Aaron's death his son Eleazar was made Israel's high priest. (Num. 20:22-29) About a year later Eleazar entered the Promised Land and served there many years as high priest, even after Joshua's death.—Ex. 28:1; Num. 3:1-3; Josh. 14:1; 24:29, 33.

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[fol. 96] IN COURT OF APPEALS OF ALABAMA

GRACE MARSH,

vs.

STATE

Appealed from Mobile Circuit Court

ORDER OF SUBMISSION—November 16, 1944

Come the parties by attorneys, and argue and submit this cause for decision.

IN COURT OF APPEALS OF ALABAMA

JUDGMENT—January 9, 1945

Come the parties by attorneys, and the record and matters therein assigned for errors, being submitted on briefs and duly examined and understood by the court, it is considered that in the record and proceedings of the Circuit Court there is no error. It is therefore considered that the judgment of the Circuit Court be in all things affirmed. It is also considered that the Appellant pay the costs of appeal of this court and of the Circuit Court.

IN COURT OF APPEALS OF ALABAMA

OPINION

RICE, Judge:

There is a Statute of Alabama reading in pertinent part as follows, to-wit: "Any person who, without legal cause or good excuse, enters * * * on the premises of another, after having been warned, within six months preceding, not to do so; or any person, who, having entered * * * on the premises of another without having been warned within six months not to do so, and fails or refuses, without legal cause or good excuse, to leave immediately on being ordered or requested to do so by the person in possession, his agent or representative, shall, on conviction, be fined

not more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months.", Code 1940, Title 14, Section 426.

Appellant was convicted of a violation of the terms of [fol. 97] the above Statute; the specific charge against her being that she "without legal cause or good excuse and after having been warned within the past six months not to do so, entered upon the premises of the Gulf Shipbuilding Corporation, a Corporation, contrary to law and against the peace and dignity of the State of Alabama."

She was tried before the Court, sitting without a jury, and assessed a fine of fifty dollars.

The material circumstances, as we will endeavor to state them from the record, are that the land upon which appellant entered, and was arrested, originally belonged to the Tennessee Land Company, a Corporation. While in the possession of this Company it erected thereon what is described in the testimony as a "business block."

This "business block" consisted of one building, divided by suitable partitions into several stores, or business places. It fronted toward a public highway, but the front was some 40 or 50 or 30 feet distant from the said highway.

In front of the "business block," running all the way across—some 250 feet—and parallel to the public highway, but upon the private property of the Tennessee Land Company, it had constructed a paved roadway. Between this paved roadway and the front of the "business block," there was a paved sidewalk constructed at the same time as, and as a part of, the said "business block." The paved roadway was separated from the public highway by an unpaved portion of the land of the Tennessee Land Company; and the paved sidewalk was separated from the paved roadway by a likewise unpaved strip of land.

All this was done more than twenty years before the beginning of this prosecution; but there is no dispute but that the Tennessee Land Company, and its successors in interest, throughout that time exercised full control over the paved sidewalk mentioned,—the paved roadway being not now involved—as a part of its private property. The stores, or business places, in the so-called "business block," were rented separately to various and sundry parties during these years; and, of course, the paved sidewalk served, without objection on the part of the Tennessee Land Company and

its successors in title, the customers of these establishments.

But the testimony is without dispute that throughout the time in question, the Tennessee Land Company and its suc- [fol. 98] cessors paid the taxes upon and maintained control of the sidewalk in question, along with all its other private property—and that people going upon it for any other purpose than as a means of ingress and egress to and from the stores or business places mentioned were required to procure "permits" from it or them.

It should perhaps be here noted that the property in question, including the sidewalk, was transferred by proper conveyances to the Gulf Shipbuilding Corporation prior to the time of the incidents leading to this appeal.

There is really no great dispute as to the facts in the case.

Appellant, admittedly, or without conflict in the testimony, was duly and properly warned, "within six months preceding" her arrest not to go upon the premises of the Gulf Shipbuilding Corporation.

She did so go upon them—that is, the sidewalk, above, which we will later a little more clearly demonstrate was the "premises" of said corporation, in the sense of the Statute quoted at the beginning of this opinion—and was there arrested on December 24th, 1943, on the charge for which she was convicted—giving rise to this appeal.

Appellant is represented here by numerous counsel who have jointly filed an exceedingly voluminous brief in her behalf. They would have us consider a wide variety of questions in reaching a decision in the case.

Among many other things counsel say: "Petitioner (appellant) Grace Marsh is an ordained minister of the gospel, and as such is one of Jehovah's witnesses. The Watchtower Bible and Tract society, under direction of which she carried forward her ministerial activities, issued to her a certificate of ordination and identification, which was introduced in evidence * * *. Therein it is explained that Jehovah's witnesses are true followers of Christ Jesus and are dedicated to the promulgation of His teachings among the people of good-will toward Almighty God. This is done in the Apostolic manner as shown in the following scriptures cited from the Bible:

'And how I * * * have taught you publickly, and from house to house.' *Acts* 20: 20.

'Go ye into all the world, and preach the gospel to every creature.' *Mark* 16: 15.

'And he (Jesus) went round about the villages, teaching.' *Mark* 6: 6.

[fol. 99] 'And it came to pass afterward, that he went throughout every city and village, preaching and shewing the glad tidings of the Kingdom of God: and the twelve were with him.' *Luke* 8: 1.

"Petitioner (appellant) said that she devoted her entire life to this work. In addition to orally teaching the people concerning the Kingdom of God, she used various printed publications, such as books, booklets and magazines. Such she distributed to 'any person of good-will who desires to read them.' To the end that this may be accomplished in an orderly manner, the City of Mobile and surrounding communities had been divided up by Jehovah's witnesses into territory sections, and each minister given a section to serve.

"Chickasaw, Alabama, a suburb of Mobile, lies in the territory assigned to petitioner (appellant). * * * The place was owned and developed by the Tennessee Land Company."

We have already stated, hereinabove, of what the relevant development—the "business block"—consisted.

We continue with our quotation from appellant's brief, to-wit: "In 1941 the Tennessee Land Company sold its property, including the business block in question to the Chickasaw Development Company, which in turn was shortly absorbed into the Gulf Shipbuilding Corporation, the present owner.

Representatives of both the present and former owners of the business block declared (and nobody disputed them, we interpolate) that there had never been an express dedication of the streets and sidewalks to the public use and that the owners had always paid taxes on the property thus being used."

However, appellant's counsel say: "The deed conveying the property in question to its present owner shows that there was a recognized dedication of the 'streets, alleys and public roads.' (Because) in the warranty section of the deed, the Grantor (Chickasaw Development Co., Inc.) put the

following limitation: '* * * provided however that the warranties herein contained do not apply to areas or property located in any of the streets, alleys or public roads * * * and as to said streets, alleys, public roads * * * this instrument shall constitute a *quit-claim deed* only.' " (Italics supplied by us.)

And then counsel say: "Furthermore, the evidence is undisputed that the sidewalks have never been restricted for the general, orderly use of the public, *peddling excepted.*" (Italics added by us.)

[fol. 100] Appellant's counsel then quote the Tennessee Land Company's Manager who said he "never stopped anybody from using it (the sidewalk, where appellant was arrested, we interpolate) so long as they used it in an orderly and proper manner and were not there for any gainful purpose."

Counsel then say: "For approximately six months prior to December 24th, 1943, Grace Marsh (this appellant) * * * had been engaged in the distribution of printed Bible literature to the people living in the Chickasaw development. It was her custom particularly to engage in the distribution of the Watchtower and *Consolation* magazines each Saturday afternoon on the sidewalk in front of the business block. This she would do by standing on the outer edge of the sidewalk near the curb displaying the magazines to the people passing up and down, at the same time calling out in moderate tones, 'Watchtower, announcing Jehovah's Kingdom.' She insisted that the magazines were not for sale and that she was not selling them, but she explained that she offered this literature freely to all persons with whom she came in contact, giving such publications to those who desired to read and study same. The persons receiving this literature were given opportunity to contribute a small sum to assist in printing like literature and to further the charitable work in which she was engaged. But if the person was too poor or otherwise unable to contribute anything, and desired to have literature, she said she let such have the magazines without receiving any contribution."

It is then set out in appellant's brief filed here that she was detained on Dec. 11th 1943, by the officer policing Gulf Shipbuilding Corporation's property, for a short time, but released. After which she went to see Mr. Peebles, Gulf Shipbuilding Corporation's Vice-President in charge of

the property in question, and told him that she was "engaged in a charitable Christian work as (an ordained minister * * * and advised him that since her continuance in this God-given activity to them (her) meant everlasting 'life or death' at the hand of Almighty God, they (she) would have to insist on their (her) constitutional right to distribute this printed message of God's Kingdom to the people in the manner aforesaid." Mr. Peebles told them (her) that regardless of their (her) understanding, they (*she*) would first have to obtain a permit to carry on their (her) work and that he was not willing to issue such a permit. Further he specifically warned them (her) not to come on the streets again.

Thereafter, on December 24th 1943, appellant appeared [fol. 101] with her magazines on the sidewalk in front of the business block. They (she) was immediately accosted by Mr. Chatham, the Company (Gulf Shipbuilding Corporation) police officer, who again informed her that she could not carry on her activity without a permit. Appellant said she then "reminded him that we were ordained ministers and that was the right granted to us by the Constitution: we were commanded by Almighty God to do this and we couldn't ask man for permits to do this work; we were not peddlers and we were not soliciting for anything, we were simply there carrying on our Christian educational work in an orderly manner."

The officer then placed them (her) under arrest.

We think what we have set forth, and quoted, hereinabove will make clear the basis for the conclusion we have reached.

The fact that all of the stores or business places, which were but "apartments," or "divisions" of the "business block"—consisting of one building—mentioned, were rented—but to different people or parties—at the time of the occurrence of the event giving rise to this prosecution, militated in no way against the possession and control—*otherwise* resting in it—of this "sidewalk" where appellant was arrested, being and remaining in Gulf Shipbuilding Corporation, whose authorized representative gave appellant due notice not to trespass thereon. *McMillan* v. *Solomon*, 42 Ala. 356.

And we find nothing in the testimony indicating that the owner of the land on which the sidewalk was constructed had ever in any way relinquished its possession and con-

trol of the said sidewalk. The fact that the sidewalk was used freely, and without objection by the public, solely as a means of ingress and egress to and from the stores in said "business block," was in no way a relinquishment by the owner of its title to same. See *Tutwiler Coal, Coke & Iron Co.* v. *Tuvin* 158 Ala. 657, 48 So. 79.

In fact, the testimony is positively to the fact that throughout the years during which the sidewalk had been in existence the owner of the property had required "permits" to be procured from it by all those using it for any other purpose than as a means of ingress and egress to and from the stores in the said "business block."

Of course, for there to have been a "dedication" of the sidewalk in question to the use of the public, it must have been used by said public "*without let or hindrance*" for a period of twenty years prior to the time of the beginning of the prosecution. (Italics ours.) *Central of Geor-*
[fol. 102] *gia Ry. Co. et al.* v. *Faulkner*, 217 Ala. 82, 114 So. 686.

It has been said that "a public highway is one *under the control and kept by the public*, and must be either established in a regular proceeding for that purpose, or *generally* used by the public for 20 years, or dedicated by the owner of the soil and accepted by the proper authorities." (Italics supplied by us.) *Bellview Cemetery Co.* v. *McEvers*, 174 Ala. 457, 57 So. 375. And see *The Attorney General* v. *Lakeview Land Company*, 143 Ala. 291, 39 So. 303.

Clearly, the fact that the *Chickasaw Development Co. Inc.* simply "quit-claimed" the "streets, alleys and public roads" on the property, operated to give the title to the "sidewalk" to the Gulf Shipbuilding Corporation in *exactly* the same way that it has held by the grantor.

No, the Gulf Shipbuilding Corporation had a perfect right to give to appellant, through its duly authorized representative as appears, the notice not to "trespass" upon the sidewalk where she was arrested.

And we come now to her real "defense"—that, as she says, to use her own words: "I reminded him (the officer, and agent of the Gulf Shipbuilding Corporation) we were Ordained Ministers and that was the right granted to us by the Constitution; we were commanded by Almighty God to do this and we couldn't ask man for permits to do this work; we were not peddlers and we were not soliciting for

anything, we were simply there carrying on our Christian educational work in an orderly manner."

Or, as her counsel state it: "The Statute (under which she is prosecuted), insofar as it has been construed and applied by the court below to allow the owner of the sidewalk and street arbitrarily to prohibit petitioners (appellant) from distributing therein in an orderly manner Bible literature explaining God's Kingdom constitutes an unreasonable abridgement of petitioner's (appellant's) rights of freedom of speech, press, assembly and worship, contrary to the first and fourteenth amendments to the United States Constitution, and Article One, Sections 1, 3, 4, 6 and 25 of the Alabama Constitution."

In brief filed here on behalf of the State it is said: "Apparently appellant relies on the constitutional provisions protecting religious freedom as her chief and real defense. This defense seems to be presented on two theories. First, that our Statute is unconstitutional when one is charged with a trespass after warning if the defendant [fol. 103] appears to be trespassing while engaged in propagating his religious views. Second, that a party engaged in such religious activities is within his constitutional rights whether he is acting in a public place or on private property. This is more chimerical than any of these numerous Jehovah Witnesses cases we have found." See *Sarah Prince* v. *Commonwealth of Massachusetts*, 88 L. Ed. 403.

We are not sure that we understand the language we have just quoted. If the able and distinguished Assistant Attorney General writing the brief meant by "this" in the last sentence of the quotation, a *holding* by any court that either of the "theories" he refers to constituted a *defense* to a charge such as is here involved, we agree with him.

But if he meant that either of the two "theories" were "more chimerical than any of these Jehovah Witnesses Cases we have found," we believe we can help him.

We seem to have found a case involving facts not distinguishable—in so far as the applicable law is involved—from those shown by the undisputed testimony in this case. And, mutatis mutandis, we approve of the holding involved in the quotation we shall take from the annotation, appearing at page 655, following the report of the case of *Commonwealth of Massachusetts v. Noah S. Richardson (Com. Mass. v. Fred E. Stanton)*, 146 A. L. R. 648, viz: "In *State v. Mur-*

tin (1941), 199 La. 39, 5 So. 2nd 377, the court sustained the constitutionality of a Statute penalizing any one who should enter upon private property after having been warned not to do so, as against the contention that it violated the First and Fourteenth Amendments to the Constitution of the United States, particularly the latter, forbidding any State to make or enforce any law which shall abridge the privileges or immunities of citizens of the United States or deprive any person of life, liberty, or property without due process of law or deny any person within its jurisdiction the equal protection of the laws, and the third and fourth sections of Article 1 of the Constitution of Louisiana, prohibiting any law 'to curtail or restrain the liberty of speech or of the press,' and providing: 'Every person has the natural right to worship God according to the dictates of his own conscience. No law shall be passed respecting an establishment of religion, nor prohibiting the free exercise thereof; nor shall any preference ever be given to, nor any discrimination made against, any church, sect, or creed of religion, or any form of religious faith, or worship,' as applied to the defendant and her codefendants, who were [fol. 104] ordained ministers of the gospel of the organization known as Jehovah's Witnesses and whose duties were to visit people in their homes and present to them recorded Bible lectures, Bibles, and Christian pamphlets and literature, and who in the performance of those duties entered upon private property 'sufficiently posted by the owner warning trespassers off,' and after an additional verbal warning by the owner, continued to propound their ideas verbally and through the use of phonograph records. The court said: 'The argument of the relatrix is that, because she and her companions were engaged in such praiseworthy work, preaching Christianity and distributing 'Christian pamphlets and other Christian literature,' she and her coworkers, while so engaged, were protected by the constitutional inhibition of laws respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press. These guaranties of freedom of religious worship, and freedom of speech and of the press, *do not sanction trespass in the name of freedom. We must remember that personal liberty ends where the rights of others begin. The constitutional inhibition against the making of a law respecting an establishment of religion, or prohibiting the free exercise thereof,*

or abridging the freedom of speech or of the press, does not conflict with the law which forbids a person to trespass upon the property of another." (Italics supplied by us.) And we refer to the opinion in the case of *Commonwealth of Masaschusetts v. Noah S. Richardson (Com. of Mass. v. Fred E. Stanton)* and the entire Annotation following same, cited hereinabove.

The rather lengthy quotation we have set forth—especially the portion we have italicized—expresses our views better, we believe, than we could state them otherwise. It is applicable—with the substitution of our own constitutional provisions—in substance similar—for those of the State of Louisiana. And we rest our decision on what is there said.

Since appellant feels aggrieved because she is made amenable to our Statute against "trespass after warning," when, as she says, she was simply obeying the command of the Master—Jehovah God, if it pleases her—to "go ye into all the world, and preach the gospel to every creature" (Mark 16:15), we would remind her that this same Master *also cautioned* her, that "* * * whosoever shall not receive you, nor hear your words, when ye depart out of that house or city, shake off the dust of your feet" (Matthew [fol. 105] 10:14); which we take to be an injunction not to go back on private property, after having been duly warned to stay away.

The judgment is affirmed.

Affirmed.

IN COURT OF APPEALS OF ALABAMA

APPLICATION FOR REHEARING—January 22, 1945

Comes now the appellant, Grace Marsh, by her attorneys of record, D. R. Coley, Jr., Hayden C. Covington, Roy Swayze, and Grover C. Powell, and applies to the court for a rehearing on the judgment rendered by this court in this cause on January 16, 1945, and prays for an order of the court or a justice thereof, that the pendency of this application for rehearing shall stay or suspend the execution of the judgment of the court, and as grounds for said rehearing, assigns the following:

1. The court erred in failing to hold that the trial court should have sustained motion of appellant to exclude the

evidence at the close of the case for the State all of which failing to show any guilt on the part of appellant.

2. That the court erred in not holding that the undisputed evidence shows that appellant's presence on the property in question did not constitute a violation of the trespass statute as a matter of law.

(a) The street and sidewalk in question had been irrevocably dedicated to a public use, and petitioner's presence thereon did not constitute a criminal trespass, within the meaning of the statute.

(b) The street and sidewalk in question were subject to a public easement in the nature of a common law dedication, and petitioner, as invitee, or licensee of the public was lawfully thereon, and her presence did not constitute a criminal trespass within the meaning of the statute.

3. The court erred in not holding that the statute, in so far as it had been construed and applied by the court below to allow the owner of the sidewalk and street arbitrarily to prohibit petitioner from distributing thereon in an orderly manner, Bible literature explaining God's Kingdom, constitutes an unreasonable abridgment of appellant's rights of freedom of speech, press, assembly and worship, contrary to the First and Fourteenth Amendments to the [fol. 106] United States Constitution, and Article One, Sections 1, 3, 4, 6 and 25 of the Alabama Constitution.

(a) The use to which the property in question has been dedicated by the Gulf Shipbuilding Corporation, creates a relationship between the owner and the public similar to that existing between a municipal corporation and its constituents, and thus the constitutional limitations applicable to ordinances of municipal corporations likewise apply to the Gulf Shipbuilding Corporation as a *de facto* municipal corporation.

(b) The statute is unconstitutional in so far as it has been construed and applied by the court below to be a means of enforcing with criminal sanctions the demand of the Gulf Shipbuilding Corporation that Jehovah's witnesses obtain a permit from the manager of the housing division before preaching the gospel by means

of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

(c) The statute is unconstitutional in so far as it has been construed and applied by the court below to be a means of enforcing with criminal sanctions the absolute prohibition imposed by the Gulf Shipbuilding Corporation on the activity of Jehovah's witnesses in preaching the gospel by means of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

(d) As it has been construed and applied by the court below to abridge and deny petitioner's constitutionally guaranteed rights of freedom of speech, press, assembly and worship, the statute is presumptively unconstitutional, and which presumption the State has failed to overcome by a showing that it is a reasonable and necessary means to prevent a clear, present and substantial danger to the public peace and order, or right of private property.

4. The court erred in not holding that the statute is unconstitutional on its face and as construed and applied by the court below in that it is not a narrowly drawn law that [fol. 107] defines and punishes specific conduct, but is vague, indefinite, uncertain, too general, fails to furnish a sufficiently ascertainable standard of guilt, permits speculation and amounts to a dragnet, contrary to the due process and equal protection clauses of the Fourteenth Amendment to the Federal Constitution and Section 6 of Article One of the Alabama Constitution.

D. R. Coley, Jr., 1010 Van Antwerp Building, Mobile, Alabama; Grover C. Powell, 203 Spring Street N. W., Atlanta 3, Georgia; Hayden C. Covington, 117 Adams Street, Brooklyn 1, New York; Roy A. Swayze, 738 22d Street South, Arlington, Virginia, Attorneys for Appellant.

IN COURT OF APPEALS OF ALABAMA

ORDER OVERRULING APPLICATION FOR REHEARING—February 13, 1945

It is ordered that the application for rehearing be and the same is overruled.

Per Curiam.

[fol. 108] IN SUPREME COURT OF ALABAMA, OCTOBER TERM, 1944-45

Ex Parte GRACE MARSH

PETITION FOR CERTIORARI TO COURT OF APPEALS

In re: GRACE MARSH v. STATE OF ALABAMA

MOBILE CIRCUIT COURT

Feb. 26, 1945—Submitted on Briefs.

[fol. 109] IN THE SUPREME COURT OF ALABAMA, FIRST DIVISION

No. 479

Appealed from Mobile Circuit Court

GRACE MARSH, Petitioner,

v.

STATE

PETITION FOR WRIT OF CERTIORARI

To the Honorable Chief Justice and Associate Justices of the Supreme Court of Alabama:

Comes now Grace Marsh, by and through her attorneys of record, D. R. Coley, Jr., Hayden C. Covington, Roy Swayze, and Grover C. Powell, and respectfully petitions this Honorable Court to review, revise, reverse and hold for naught that certain judgment of the judgment rendered

by the Court of Appeals on January 9, 1945, wherein Grace Marsh was appellant and the State was appellee, which said judgment affirmed the conviction of the Circuit Court of Mobile County.

Your petitioner avers that an application to said Court of Appeals for a rehearing of said cause, together with Brief in support thereof, was filed by your petitioner, and said application for rehearing was overruled on February 13, 1945.

Your petitioner further shows unto your Honors that the Court of Appeals erred in affirming judgment of the Circuit Court of Mobile County, Alabama, because of said void judgment, in the following ways, to wit:

1. The Court of Appeals erred in failing to hold that the trial court should have sustained motion of petitioner to [fol. 110] exclude the evidence at the close of the case for the State all of which failing to show any guilt on the part of petitioner.

2. That the Court of Appeals erred in not holding that the undisputed evidence shows that petitioner's presence on the property in question did not constitute a violation of the trespass statute as a matter of law.

(a) The street and sidewalk in question had been irrevocably dedicated to a public use, and petitioner's presence thereon did not constitute a criminal trespass, within the meaning of the statute.

(b) The street and sidewalk in question were subject to a public easement in the nature of a common law dedication, and petitioner, as invitee, or licensee of the public was lawfully thereon, and her presence did not constitute a criminal trespass within the meaning of the statute.

3. The Court of Appeals erred in not holding that the statute, so far as it had been construed and applied by the court below to allow the owner of the sidewalk and street arbitrarily to prohibit petitioner from distributing thereon in an orderly manner, Bible literature explaining God's Kingdom, constitutes an unreasonable abridgment of petitioner's rights of freedom of speech, press, assembly and worship, contrary to the First and Fourteenth Amend-

ments to the United States Constitution, and Article One, Sections 1, 3, 4, 6 and 25 of the Alabama Constitution.

(a) The use to which the property in question has been dedicated by the Gulf Shipbuilding Corporation, creates a relationship between the owner and the public similar to that existing between a municipal corporation and its constituents, and thus the constitutional limitations applicable to ordinances of municipal corporations likewise apply to the Gulf Shipbuilding Corporation as a *de facto* municipal corporation.

[fol. 111] (b) The statute is unconstitutional so far as it has been construed and applied by the court below to be a means of enforcing with criminal sanctions the demand of the Gulf Shipbuilding Corporation that Jehovah's witnesses obtain a permit from the manager of the housing division before preaching the gospel by means of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

(c) The statute is unconstitutional so far as it has been construed and applied by the court below to be a means of enforcing with criminal sanctions the absolute prohibition imposed by the Gulf Shipbuilding Corporation on the activity of Jehovah's witnesses in preaching the gospel by means of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

(d) As it has been construed and applied by the court below to abridge and deny petitioner's constitutionally guaranteed rights of freedom of speech, press, assembly and worship, the statute is presumptively unconstitutional, and which presumption the State has failed to overcome by a showing that it is a reasonable and necessary means to prevent a clear, present and substantial danger to the public peace and order, or right of private property.

4. The Court of Appeals erred in not holding that the statute is unconstitutional on its face and as construed and applied by the court below in that it is not a narrowly drawn law that defines and punishes specific conduct, but

is vague, indefinite, uncertain, too general, fails to furnish [fol. 112] a sufficiently ascertainable standard of guilt, permits speculation and amounts to a dragnet, contrary to the due process and equal protection clauses of the Fourteenth Amendment to the Federal Constitution and Section 6 of Article One of the Alabama Constitution.

In view of the above, your petitioner respectfully prays that this petition for Writ of Certiorari be granted, directing the Court of Appeals to reverse and hold for naught its judgment of January 9, 1945, and that petitioner be adjudged not guilty and ordered discharged.

Submitted herewith is a Brief in support of this petition.

D. R. Coley, Jr., 1010 Van Antwerp Building, Mobile, Alabama; Hayden C. Covington, 117 Adams Street, Brooklyn, 1, New York; Grover C. Powell, 203 Spring Street, N. W., Atlanta, 3, Georgia; Roy A. Swayze, 738 22d Street South, Arlington, Virginia, Attorneys for Petitioner.

This is to Certify That I have this day served the Attorney General of the State of Alabama with a copy of the petitions for certiorari in Grace Marsh v. State, Joseph H. Marsh v. State and Cora Smith v. State and brief in support of petitions for certiorari, by depositing the same in the mail addressed to the Attorney General, Montgomery, Alabama, with sufficient postage attached thereto.

This 24 day of February, 1945.

Grover C. Powell, 203 Spring Street, Atlanta, 3, Georgia, Attorney for Petitioners.

[fols. 113-115] In Supreme Court of Alabama

[Title omitted]

Judgment—March 29, 1945

Comes the Petitioner by attorney, and the Petition for the Writ of Certiorari to the Court of Appeals being submitted on briefs and duly examined and understood by the Court, it is considered and ordered that said petition be and the same is hereby denied at the cost of the Petitioner.

[fol. 116] COURT OF APPEALS OF ALABAMA

GRACE MARSH, Appellant,

v.

THE STATE OF ALABAMA, Appellee

On Appeal to the Supreme Court of the United States

Petition for Appeal, Statement, Assignments of Error and Prayer for Reversal—Filed May 3, 1945

PETITION FOR APPEAL

Considering herself aggrieved by the final decision of the Court of Appeals of Alabama in the above entitled cause, the appellant herein, Grace Marsh, hereby prays that an appeal be allowed to the Supreme Court of the United States herein, and for an order allowing same and fixing the amount of the bond thereon.

STATEMENT

This case is one in which the validity of state legislation is drawn in question, to wit, Chapter 79, Section 426 of the Alabama Code, reading as follows:

> "Trespass After Warning: Any person, who, without legal cause or good excuse, enters into the dwelling house or on the premises of another, after having been warned, within six months preceding, not to do so, * * * and fails or refuses, without legal cause or good excuse, to leave immediately on being ordered or requested to do so by the person in possession, his agent [fol. 117] or representative, shall upon conviction be fined not more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months."

Said statute was in force and effect at the time of the offense alleged in the complaint. It is drawn in question upon the ground that it is repugnant to the First and Fourteenth Amendments to the United States Constitution, insofar as it has been construed as a means of enforcing with criminal sanctions a regulation of the Gulf Shipbuilding Corporation prohibiting peddlers, solicitors

and hawkers from plying their trade in and about the streets of the Chickasaw Housing development without the prior permission of the housing manager.

Under Alabama law, the Court of Appeals is the tribunal of last resort in criminal cases of the kind here involved. The Supreme Court of Alabama maintains revisory powers by means of the writ of certiorari, however. Therefore, within 15 days from the date of the judgment of the Court of Appeals overruling appellant's motion for rehearing (February 13, 1945) [107]* appellant filed a petition for writ of certiorari in the Supreme Court of Alabama, praying that the writ be issued to the Court of Appeals for review of its judgment. [108] In such petition, appellant complained of the judgment of the Circuit Court of Mobile County on the grounds that the statute had been construed and applied to deprive appellant of her right of freedom of speech, press, assembly and worship, and because such statute vested an arbitrary and discriminatory [fol. 118] power in the police authority and left the question of violation of such statute entirely to the whim and caprice of the housing managers and was thus vague and indefinite and void on its face and as construed and applied. [108-113] After duly considering this petition, the Supreme Court of Alabama, on March 29, 1945, denied same [113], and thereupon the judgment of the Alabama Court of Appeals became final.

The Alabama Court of Appeals was the highest court in the state in which a decision could be had in this cause, although such court is not the highest court in the state. The judgment and order of affirmance entered by the Court of Appeals was not susceptible of further review by appeal in the state courts. All proper steps were taken to secure further review by presenting the petition for writ of certiorari to the Supreme Court of Alabama. Exercising its discretion in such case, the Supreme Court on March 29, 1945, refused to issue the writ and review the judgment of the Court of Appeals. [113]

The judgment of the Supreme Court merely states that the petition for the writ is denied, but it does not *affirm* the judgment of the Court of Appeals. In denying the petition for writ of certiorari in *Jones* v. *Opelika*, 242 Ala.

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* Bracketed figures refer to page numbers of typewritten transcript.

549, 7 S. 2d 503 (1942) (reversed by this court at 319 U. S. 103), the Alabama Supreme Court specifically adjudged that the writ was "denied and the judgment affirmed." Hence, in that case petitioner applied to this court for a writ of certiorari directed to the Supreme Court of Alabama praying for review of the judgment of said court. But here the situation is different in that the judgment of the Supreme Court of Alabama denied certiorari, but did not affirm the judgment of the Court of Appeals. Therefore, the judgment here appealed from is that of the Court [fol. 119] of Appeals, which became final upon denial of the petition for writ of certiorari by the Supreme Court of Alabama. See *Bacon* v. *Texas*, 163 U. S. 207, 215; *Sullivan* v. *Texas*, 207 U. S. 416, 422; *San Antonio & A. P. R. Co.* v. *Wagner*, 241 U. S. 476, 477; *Randall* v. *Board of Commr's of Tippecanoe County, Ind.*, 261 U. S. 252; *Western Union Tel. Co.* v. *Croxo*, 220 U. S. 364, 366; *Stanley* v. *Schwalby*, 162 U. S. 255, 269; *Norfolk & S. Turnpike Co.* v. *Virginia*, 225 U. S. 264, 269; *Cuyahoga Power Co.* v. *Northern Realty Co.*, 244 U. S. 300, 302, 303; *Western Union Tel. Co.* v. *Priester*, 276 U. S. 252, 258; *Pennsylvania R. R.* v. *Illinois Brick Co.*, 297 U. S. 447, 453; *Mellon* v. *O'Neill*, 275 U. S. 212, 213; *Second Nat'l Bank of Cincinnati* v. *First Nat'l Bank of Okeana*, 242 U. S. 600; *Chesapeake & Ohio R. R.* v. *Kuhn*, 284 U. S. 44, 45, 46.

Therefore in accordance with the rules of the Supreme Court of the United States (Rule 46, paragraph 2) and 28 U. S. C. secs. 344 and 354, and Section 237 (a) of the Judicial Code, the petitioner respectfully shows this court that the case is one in which, under the legislation in force when the Act of January 31, 1928 (45 Stat. L. 54) was passed, to wit, under Section 237 (a) of the Judicial Code (28 U. S. C. s. 344), a review could be had in the Supreme Court of the United States on a writ of error as a matter of right.

Assignments of Error

Now comes the appellant in the above cause and files herewith, together with her petition for appeal, these assignments of error and says that they are errors committed by the courts below in the record and proceedings of the above entitled cause, and for the purpose of having the same reviewed in the United States Supreme Court [fol. 120] says the court below erred in affirming the judg-

ment of conviction entered against appellant by the Circuit Court of Mobile County because

1. The statute and the regulation, insofar as they have been construed and applied by the court below to allow the owner of the sidewalks and streets within the town arbitrarily to prohibit appellant from distributing thereon in an orderly manner Bible literature explaining God's Kingdom, constitute an unreasonable abridgment of appellant's rights of freedom of speech, press, assembly and worship, contrary to the First and Fourteenth Amendments to the United States Constitution.

(a) The use to which the property in question has been dedicated by the Gulf Shipbuilding Corporation and to which it has been put by the people creates a relationship between the owner and the public similar to that existing between a municipal corporation and its constituents, and thus the constitutional limitations applicable to ordinances of municipal corporations likewise apply to the Gulf Shipbuilding Corporation acting as a *de facto* municipal corporation.

(b) The statute and regulations are unconstitutional insofar as they have been construed and applied by the court below to be a means of enforcing with criminal sanctions the regulation of the Gulf Shipbuilding Corporation that Jehovah's witnesses obtain a permit from the housing manager of the town before preaching the gospel by means of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

(c) The statute in question is unconstitutional insofar as it has been construed and applied by the court below to be [fol. 121] a means of enforcing with criminal sanctions the absolute prohibition imposed by the Gulf Shipbuilding Corporation on the activity of Jehovah's witnesses in preaching the gospel by means of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

2. As they have been construed and applied by the courts below to abridge and deny appellant's constitutionally guaranteed rights of freedom of speech, press, assembly and worship, the statute, as well as the regulation, is presumptively unconstitutional, and which presumption the

State has failed to overcome by a showing that both of these enactments are reasonable and necessary means to prevent a clear, present and substantial danger to the public peace and order, or right of private property.

3. The statute and the regulation are unconstitutional on their face and as construed and applied by the courts below in that they are not narrowly drawn laws in either case defining and punishing specific conduct, but both are vague, indefinite, uncertain, too general, fail to furnish a sufficiently ascertainable standard of guilt, permit speculation and amount to a dragnet, contrary to the due process and equal protection clauses of the Fourteenth Amendment to the Federal Constitution.

PRAYER FOR REVERSAL.

For and on account of the above errors, the appellant, Grace Marsh, prays that the said judgments of the Mobile County Circuit Court and the Court of Appeals of Alabama, hereinbefore described in the above entitled cause be re- [fols. 122-125] viewed by the Supreme Court of the United States and reversed, and a judgment rendered in favor of appellant and for her costs.

Hayden C. Covington, 117 Adams Street, Brooklyn 1, New York, Telephone Triangle 5-1474; Grover C. Powell, 203 Spring Street, N. W., Atlanta 3, Georgia; Roy A. Swayze, 738 22d Street South, Arlington, Virginia; D. R. Coley, Jr., 1010 Van Antwerp Building, Mobile, Alabama, Attorneys for Appellant.

[fols. 126-127] Citation in usual form showing service on Attorney General, filed May 3, 1945, omitted in printing.

[fol. 128] IN COURT OF APPEALS OF ALABAMA

[Title omitted]

ORDER ALLOWING APPEAL—Filed May 3, 1945

Appellant, Grace Marsh, in the above entitled cause has prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment and order rendered by the Court of Appeals of Alabama on Jan-

uary 9, 1945, affirming the judgment of the Circuit Court of Mobile County, which judgment of the Court of Appeals became final on March 29, 1945 when the Alabama Supreme Court denied appellant's petition for writ of certiorari.

It appearing that appellant, in her motions and argument of counsel made in her behalf in this cause, attacked the statute in question on the grounds, as contended by her, that it was void and in excess of the police power of the State because it conferred arbitrary and discriminatory power upon the Housing Manager of the Chickasaw Housing Development, owned and managed by the Gulf Shipbuilding Corporation, and that as construed and applied it was violative of the fundamental freedoms guaranteed and secured by the First and Fourteenth Amendments to the Constitution of the United States, all of which contentions [fol. 129] were overruled; and

It appearing that appellant has presented and filed her petition for appeal to the Supreme Court of the United States, a statement, assignments of error and prayer for reversal and jurisdictional statement, all within three (3) months from the date said judgment of the Alabama Court of Appeals became final, and it further appearing that the said Court of Appeals is the court of last resort in Alabama in which a decision can be had in this cause, pursuant to the statutes and the rules of the Supreme Court of the United States in such case made and provided,

It Is Now Here Ordered that an appeal be and the same is hereby allowed to the Supreme Court of the United States from the judgment and order of the Alabama Court of Appeals in the aforesaid cause as provided by law, and

It Is Further Ordered that the Clerk of the Alabama Court of Appeals shall prepare and certify a transcript of the record, proceedings and judgment in said cause, together with all exhibits in their original form and the judgment rendered by the Alabama Supreme Court in connection with the certiorari proceedings in this cause, and transmit the same to the Clerk of the Supreme Court of the United States so that he shall have the same in said Court within twenty (20) days from this date.

And It Is Further Ordered that a bond on appeal for appearance and costs on appeal be fixed in the sum of Five Hundred ($500) Dollars and appellant having presented an undertaking conditioned as required by law in the sum of

Five Hundred ($500) Dollars executed by good and suffi-
[fols. 130-133] cient sureties, it is further ordered that such undertaking or bond be and the same is hereby approved and ordered filed.

It Is Further Ordered that the issuance of mandate or *capias profine* be stayed pending a final disposition of this appeal and until the return of the mandate from the Supreme Court of the United States.

Done at Montgomery, Alabama, on this 3rd day of May, 1945.

C. R. Bricken, Presiding Judge of the Court of Appeals of Alabama.

[fol. 134] SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS RELIED ON—Filed June 6, 1945

Comes now appellant, Grace Marsh, in the above entitled cause and states that the points upon which she intends to rely in the Supreme Court of the United States in this cause are as follows:

1. The statute and regulation, insofar as they have been construed and applied by the court below to allow the owner of the sidewalks and streets within the town arbitrarily to prohibit appellant from distributing thereon in an orderly manner Bible literature explaining God's Kingdom, constitute an unreasonable abridgment of appellant's rights of freedom of speech, press, assembly and worship, contrary to the First and Fourteenth Amendments to the Federal Constitution.

(a) The use to which the property in question has been dedicated by the Gulf Shipbuilding Corporation and put by the people creates a relationship between the owner and the public similar to that existing between a municipal corporation and its constituents, and thus the constitutional limitations applicable to ordinances of municipal corporations likewise apply to the Gulf Shipbuilding Corporation acting as a *de facto* [fol. 135] municipal corporation.

(b) The statute and regulation are unconstitutional insofar as they have been construed and applied by the court below to be a means of enforcing with criminal

sanctions the regulation of the Gulf Shipbuilding Corporation that Jehovah's witnesses obtain a permit from the housing manager of the town before preaching the gospel by means of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

(c) The statute is unconstitutional insofar as it has been construed and applied by the court below to be a means of enforcing with criminal sanctions the absolute prohibition imposed by the Gulf Shipbuilding Corporation on the activity of Jehovah's witnesses in preaching the gospel by means of distributing printed Bible sermons to the people passing along the street and sidewalk in question.

2. As construed and applied by the court below to abridge and deny appellant's constitutionally guaranteed rights of freedom of speech, press, assembly and worship, the statute, as well as the regulation, is presumptively unconstitutional, and which presumption the State has failed to overcome by a showing that both of these enactments are reasonable and necessary means to prevent a clear, present and substantial danger to the public peace and order, or right of private property.

3. The statute and regulation are unconstitutional on their face and as construed and applied by the court below in that they are not narrowly drawn laws in either case [fol. 136] defining and punishing specific conduct, but both are vague, indefinite, uncertain, too general, fail to furnish a sufficiently ascertainable standard of guilt, permit speculation and amount to a dragnet, contrary to the due process and equal protection clauses of the Fourteenth Amendment to the Federal Constitution.

For the above reasons the judgment of the Court of Appeals of Alabama should be reversed.

Hayden C. Covington, 117 Adams Street, Brooklyn 1, New York; Grover C. Powell, 203 Spring Street, N. W., Atlanta 3, Georgia; Roy A. Swayze, 738 22d Street South, Arlington, Virginia; D. R. Coley, Jr., 1010 Van Antwerp Building, Mobile, Alabama, Attorneys for Appellant.

[fol. 137] [File endorsement omitted.]

[fol. 138] UNITED STATES SUPREME COURT

DESIGNATION OF PARTS OF RECORD TO BE PRINTED—Filed June 11, 1945

To the Clerk of the Supreme Court of the United States.
To Attorney of Record for Appellee.

GENTLEMEN:

The Clerk of the Supreme Court of the United States is requested to cause to be printed from the typewritten transcript forwarded to the Supreme Court of the United States by the Clerk of the Alabama Court of Appeals, as the printed transcript for use upon the argument, submission and determination of the above cause, the following documents and portions of the record:

From Volume 1 of the Transcript

1. Complaint.
2. Pleas.
3. State's Motion to strike pleas.
4. Order, State's Motion to strike pleas, granted as to all pleas except plea of not guilty and defendant excepts.
5. Waiver of arraignment, plea of not guilty, judgment, sentence, notice of appeal and suspension of execution of sentence pending appeal.
6. Certiorari from Court of Appeals.
7. Transcript of evidence.

[fol. 139] 8. Order of submission.
9. Judgment entry.
10. Opinion.
11. Application for rehearing.
12. Judgment entry.
13. Order of submission.
14. Petition for writ of certiorari.
15. Judgment entry.

From Volume 2 of the Transcript

16. Petition for allowance of appeal to the Supreme Court of the United States, Statement, Assignments of error, and Prayer for reversal.
17. Citation.
18. Order allowing appeal to the Supreme Court of the United States.

19. Statement of points relied upon.

20. Copy of this designation of parts of record to be printed.

This Is to Certify that the undersigned counsel for appellant has this day caused to be served upon the Clerk of the Supreme Court of the United States and upon the Attorney of Record for appellee, respectively, the original and a copy of the above designation by mail in the manner required by law.

Dated June 9, 1945.

Hayden C. Covington, Counsel for Appellant. Office and P. O. Address: 117 Adams Street, Brooklyn 1, New York.

[fol. 140] [File endorsement omitted.]

[fol. 141] SUPREME COURT OF THE UNITED STATES

ORDER NOTING PROBABLE JURISDICTION—October 8, 1945

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

Mr. Justice Jackson and Mr. Justice Burton took no part in the consideration or decision of this question.

Endorsed on Cover: File No. 49,805. Alabama, Court of Appeals. Term No. 114. Grace Marsh, Appellant, vs. The State of Alabama. Filed June 6, 1945. Term No. 114, O. T. 1945.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 352 114

GRACE MARSH,

Appellant,

vs.

THE STATE OF ALABAMA

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF ALABAMA

STATEMENT AS TO JURISDICTION

HAYDEN C. COVINGTON,
GROVER C. POWELL,
D. R. COLEY, JR.,
ROY A. SWAYZE,
Counsel for Appellant.

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COURT OF APPEALS OF ALABAMA

GRACE MARSH,

Appellant,

vs.

THE STATE OF ALABAMA,

Appellee

ON APPEAL TO THE SUPREME COURT OF THE UNITED STATES

JURISDICTIONAL STATEMENT

In compliance with Rule 12 (1) of the Supreme Court of the United States, as amended April 6, 1942, appellant files her statement disclosing the basis upon which she contends that the Supreme Court of the United States has jurisdiction upon appeal to review the judgment in question.

Statutory Provisions Sustaining Jurisdiction

Jurisdiction of the Supreme Court of the United States is invoked under Section 237 (a) of the Judicial Code or 28 U. S. C. 344 (a).

Under the Act of Congress of January 31, 1928, Chapter 14, 45 Stat. 54, and under the Act of Congress of April 26, 1928, Chapter 440, 45 Stat. 466, an appeal may be taken in any case which under prior statute could be received as a matter of right on writ of error. This case presents a state of facts within the jurisdiction of this court.

Legislation Drawn in Question

The legislation, the constitutionality and validity of which is here drawn in question is the so-called "trespass after warning" statute (Chapter 79, Article 426 of the Alabama Code) which provides:

> "TRESPASS AFTER WARNING. Any person, who, without legal cause or good excuse, enters into the dwelling house or on the premises of another, after having been warned, within six months preceding, not to do so, * * * and fails or refuses, without legal cause or good excuse, to leave immediately on being ordered or requested to do so by the person in possession, his agent or representative, shall upon conviction be fined not more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months."

Also drawn in question is a rule promulgated by the Gulf Shipbuilding Corporation for the Town of Chickasaw, Alabama, which it owns, prohibiting peddlers, solicitors and hawkers from plying their trade within the limits of said town without the permission of the housing manager of the town.

How Legislation Construed by Court Below

Chapter 79, Section 426 of the Alabama Code was construed by the Alabama Court of Appeals so as to furnish criminal sanctions for violation of the rule of the Gulf Shipbuilding Corporation prohibiting peddling, soliciting and hawking within the limits of Chickasaw, Alabama, without the prior permission of the housing manager: *The code provision was not restricted so as to give protection to individual property owners troubled by trespassers who, having been previously warned, refused to leave when ordered so to do; but was broadly construed so as to enable*

the manager of the town to absolutely prohibit appellant and others similarly situated from distributing their Bible literature to persons passing along the streets and sidewalks owned by the Gulf Shipbuilding Corporation, without the prior permission of the housing manager. Thus, for all intents and purposes, the Code provision has been construed so as to constitute a peddler's permit law of the type repeatedly struck down by the United States Supreme Court.[1]

The Court of Appeals of Alabama, the highest court of Alabama in which a decision can be obtained in this cause, held that the statute was valid and constitutional and that it did not abridge appellant's rights of free speech, free press and her freedom to worship and serve ALMIGHTY GOD according to His written commands contained in the Bible and according to appellant's conscience. The Court of Appeals also held that said statute was not unconstitutional because unreasonable and in excess of the police powers of the state and hence contrary to the Fourteenth Amendment. The Court of Appeals also refused to hold that the statute conferred authority at once arbitrary and discriminatory, upon the manager of the town, contrary to the Fourteenth Amendment to the Federal Constitution. That court of last resort of the State of Alabama sustained the application of the statute to appellant and decided in favor of the validity of same under the Federal Constitution and held that it was constitutional on its face and as construed and applied.

Alabama Court of Appeals Is Court of Last Resort

Under the Alabama law, the Court of Appeals is the tribunal of last resort in criminal cases of the kind here involved. The Supreme Court of Alabama maintains re-

[1] *Largent* v. *Texas*, 318 U. S. 418 (1943); *Schneider* v. *New Jersey*, 308 U. S. 147 (1939); *Lovell* v. *Griffin*, 303 U. S. 444 (1938).

visory powers by means of the writ of certiorari, however. Therefore, within 15 days from the date of the judgment of the Court of Appeals overruling appellant's motion for rehearing (February 13, 1945) [107] [2] appellant filed a petition for writ of certiorari in the Supreme Court of Alabama, praying that the writ be issued to the Court of Appeals for review of its judgment [108-113]. In such petition, appellant complained of the judgment of the Circuit Court of Mobile County on the grounds that the statute had been construed and applied to deprive appellant of her right of freedom of speech, press, assembly and worship, and because such statute vested an arbitrary and discriminatory power in the police authority and left the question of violation of such statute entirely to the whim and caprice of the housing managers and was thus vague and indefinite and void on its face and as construed and applied [108-113]. After duly considering this petition, the Supreme Court of Alabama, on March 29, 1945, denied same [113], and thereupon the judgment of the Alabama Court of Appeals became final.

The Alabama Court of Appeals was the highest court in the state in which a decision could be had in this cause, although such court is not the highest court in the state. The judgment and order of affirmance entered by the Court of Appeals was not susceptible of further review by appeal in the state courts. All proper steps were taken to secure further review by presenting the petition for writ of certiorari to the Supreme Court of Alabama. Exercising its discretion in such case, the Supreme Court on March 29, 1945, refused to issue the writ and review the judgment of the Court of Appeals [113].

The judgment of the Supreme Court merely states that the petition for the writ is denied, but it does not *affirm* the judgment of the Court of Appeals. In denying the

[2] Bracketed figures refer to page numbers of typewritten transcript.

petition for writ of certiorari in *Jones* v. *Opelika*, 242 Ala. 549, 7 S. 2d 503 (1942) (reversed by the United States Supreme Court at 319 U. S. 103), the Alabama Supreme Court specifically adjudged that the writ was "denied and the judgment affirmed." Hence, in that case petitioner applied to the United States Supreme Court for a writ of certiorari directed to the Supreme Court of Alabama praying for review of the judgment of said court. But here the situation is different in that the judgment of the Supreme Court of Alabama denied certiorari, but did not affirm the judgment of the Court of Appeals. Therefore, the judgment here appealed from is that of the Court of Appeals, which became final upon denial of the petition for writ of certiorari by the Supreme Court of Alabama. See *Bacon* v. *Texas*, 163 U. S. 207, 215; *Sullivan* v. *Texas*, 207 U. S. 416, 422; *San Antonio & A. P. R. R.* v. *Wagner*, 241 U. S. 476, 477; *Randall* v. *Board of Comm'rs of Tippecanoe County, Ind.*, 261 U. S. 252; *Western Union Tel. Co.* v. *Crovo*, 220 U. S. 364, 366; *Stanley* v. *Schwalby*, 162 U. S. 255, 269; *Norfolk & S. Turnpike Co.* v. *Virginia*, 225 U. S. 264, 269; *Cuyahoga Power Co.* v. *Northern Realty Co.*, 244 U. S. 300, 302, 303; *Western Union Tel. Co.* v. *Priester*, 276 U. S. 252, 258; *Pennsylvania R. R.* v. *Illinois Brick Co.*, 297 U. S. 447, 453; *Mellon* v. *O'Neill*, 275 U. S. 212, 213; *Second Nat'l Bank of Cincinnati* v. *First Nat'l Bank of Oceana*, 242 U. S. 600; *Chesapeake & Ohio R. R.* v. *Kuhn*, 284 U. S. 44, 45, 46.

Timeliness

The judgment of the Alabama Court of Appeals, affirming the judgment of the Circuit Court of Mobile County assessing a fine of Fifty ($50) Dollars and costs, was rendered and entered on the 9th day of January, 1945 [96]. Thereafter, within the time allowed by law, an application for rehearing was filed by appellant [105]. Said application for rehearing was overruled on the 13th day of Feb-

ruary, 1945 [107]. On February 24, 1945, a petition for writ of certiorari was filed in the Supreme Court of Alabama, raising the identical questions as urged in the Alabama Court of Appeals [108-113]. The Supreme Court of Alabama on March 29, 1945 denied that petition without opinion [113], whereupon the judgment of the Court of Appeals became final. This appeal is duly presented and filed within three months from the date such judgment of the Court of Appeals became final and is therefore timely.

Opinion

The opinion of the Alabama Court of Appeals is not yet reported. It is set out in the record [96-105] and is printed as an appendix to this jurisdictional statement.

No opinion was filed by the Supreme Court of Alabama in this cause.

Statement of the Case

Facts

Appellant Grace Marsh is an ordained minister of Almighty God, and as such is one of Jehovah's witnesses preaching the gospel of the Kingdom of God [44, 47]. The Watchtower Bible and Tract Society, under direction of which she carried forward her ministerial activities, issued to her a certificate of ordination and identification, which was introduced in evidence as Defendant's Exhibit 3 [51-55]. Appellant explained that Jehovah's witnesses are true followers of Christ Jesus and are dedicated to the promulgation of His teachings among the people of good-will toward Almighty God. This is done in the apostolic manner as shown in the following scriptures cited from the Bible:

"And how I * * * have taught you publickly, and from house to house."—Acts 20:20.

"Go ye into all the world, and preach the gospel to every creature."—Mark 16:15.

"And he [Jesus] went round about the villages, teaching."—Mark 6:6.

"And it came to pass afterward, that he went throughout every city and village, preaching and showing the glad tidings of the Kingdom of God; and the twelve were with him."—Luke 8:1.

Appellant said that she devoted her entire life to this work [44]. In addition to orally teaching the people concerning the kingdom of God, she used various printed publications, such as books, booklets [52-53] and magazines [45]. Such she distributed to "any person of good-will who desires to read them" [45]. To the end that this may be accomplished in an orderly manner, the city of Mobile and surrounding communities had been divided up by Jehovah's witnesses into territory sections, and each minister given a section to serve.

Chickasaw, Alabama, a suburb of Mobile, lies in the territory section assigned to appellant [48]. According to the latest United States Census (1940), this community had a population of 1530. Since the industrial expansion occasioned by the influx of war workers, this population has increased considerably within recent months [13]. By the record it appears that this community sprang up during World War I as a "boom-center". The place was owned and developed by the Tennessee Land Company. That concern's local manager, William C. Myles, testified that his company erected a group of stores in the year 1921, including a drug store, hardware store, grocery, bakery, and a restaurant. Those stores constituted a so-called "business block" for the community. All the stores were located in one building, approximately 150 feet long [64]. A separate frame building, situated nearby, provided quarters for a post office. All of those buildings fronted on a street, 250

feet in length, which ran parallel with a main highway [64]. Both ends of that street were connected with the highway, so that the street formed a sort of short circular detour from the main road for the convenience of shoppers in the business center [30, 31, 36, 64]. All those buildings were only 30 or 40 feet off the highway, and the street was separated from the pavement of the highway only by a narrow strip of dirt [31]. A concrete sidewalk lay in front of the stores, the entire length of the building [30]. The stores were leased out to tenants who conducted their respective businesses in the customary and usual manner for general public patronage [56, 65, 67]. The post office served not only the people living on the company-owned land, but also all the surrounding area [61, 62]. There was no visible mark of any kind that would indicate the boundary of the company-owned property and adjoining property otherwise owned [14].

In 1941 the Tennessee Land Company sold its property, including the business block in question, to the Chickasaw Development Company, which in turn was shortly absorbed into the Gulf Shipbuilding Corporation, the present owner [20, 63]. Both street and highway were widened, the stores were remodeled and other additions were made; but in all other respects the change in ownership did not change the character of the business center [34, 40, 56]. In December, 1943, a barber shop, drug store, beauty parlor, laundry, post office, grocery store, doctor's office and a commercial office were operating in the business block under leases from the Gulf Shipbuilding Corporation, and doing business with the general public [30, 37].

Representatives of both the present and former owners of the business block declared that there had never been an express dedication of the streets and sidewalks to the public use and that the owners had always paid taxes on the

property thus being used [31, 67]. However, the deed (State's Exhibit 1) conveying the property in question to its present owner, the Gulf Shipbuilding Corporation, clearly shows that there was a recognized dedication of the "streets, alleys or public roads". In the warranty section of the deed, the Grantor (Chickasaw Development Co., Inc.) put the following limitation [27]:

> "* * * provided however that the warranties herein contained do not apply to areas or property located in any of the streets, alleys or public roads nor to the sewer line extending between the Main Village and the East Village of Chickasaw, not to the right of way therefore, nor to shrubbery, and as to said streets, alleys, public roads, property therein and the sewer line between said villages with the right of way therefor and shrubbery this instrument shall constitute a quit-claim deed only."

Furthermore, the evidence is undisputed that the sidewalks have never been restricted for the general, orderly use of the public, peddling excepted [36, 39, 40, 48, 69]. The testimony of A. I. Chatham, Deputy Sheriff for the development for the past 12 years, emphasizes the continuous, unrestricted use of this sidewalk by the public [12-13]:

> "Q. Has that sidewalk been continuously used by the general public during all of those twelve years you have lived there? A. Yes sir.
>
> "Q. Are these the first people that have been arrested there offering a magazine or paper on the sidewalk? A. The first ones that I have arrested, yes sir.
>
> "Q. Have you known of any others to be arrested there for that? A. No sir.
>
> * * * * * * *
>
> "Q. This sidewalk is used you say by the general public, that is similar to the use that is put to in any small town of that size, is it not? A. Yes sir, the general public use it."

This was confirmed by the Tennessee Land Company's manager, William C. Myles, who went even further and agreed that while he had title to the property, he "never stopped anybody from using it so long as they used it in an orderly and proper manner and were not there for any gainful purpose" [69].

The manager of the Tennessee Land Company, former owner of the property, said that it had always been the rule to require peddlers and hawkers to obtain prior permission from him before they could sell their wares on the streets of the business center [67]. E. B. Peebles, Vice President of the Gulf Shipbuilding Corporation, testified that he had continued that practice [32]. Around the first of December 1943, Mr. Peebles, acting for the Gulf Shipbuilding Corporation, caused the following notice (State's Exhibit 2) to be posted in the windows of the stores along the business block [34, 37]:

"NOTICE

"This is private property, and without written permission, no street, or house vendor, agent or solitation of any kind will be permitted.

Gulf Shipbuilding Corporation, Housing Division."

For approximately six months prior to December 24, 1943, Grace Marsh and others of Jehovah's witnesses had been engaging in the distribution of printed Bible literature to the people living in the Chickasaw development [48]. It was her custom particularly to engage in the distribution of the *Watchtower* and *Consolation* magazines each Saturday afternoon on the sidewalk in front of the business-block. This she would do by standing on the outer edge of the sidewalk near the curb displaying the magazines to the people passing up and down, at the same time calling out in moderate tones, "Watchtower, announcing Jehovah's Kingdom" [44, 45, 49]. She insisted that the magazines

were not for sale and that she was not selling them, but she explained that she offered this literature freely to all persons with whom she came in contact, giving such publications to those who desired to read and study same. The persons receiving this literature were given opportunity to contribute a small sum to assist in printing like literature and to further the charitable work in which she was engaged. But if the person was too poor or otherwise unable to contribute anything, and desired to have literature, she said she let such have the magazines without receiving any contribution [45, 49].

Both of the magazines being distributed, (*The Watchtower*, issue of December 15, 1943, and *Consolation*, issue of December 22, 1943), were introduced in evidence as Defendant's Exhibits 1 and 2, respectively, and have been handed up to the United States Supreme Court in original form [19]. Examination of these magazines discloses that both are devoted to Christianity and Christian teachings and contain no commercial advertising. *The Watchtower*, issued semimonthly, deals entirely with Scriptural discussions of great concern to the people seeking knowledge of God's purposes toward mankind. *Consolation*, a journal of fact, hope and courage, issued biweekly, publishes news uncensored by any political, religious or commercial body and contains Bible treatises as well. [Cf. testimony of Deputy Sheriff Chatham, in this connection [14, 15, 18].]

As had been their weekly custom, appellant and a companion appeared on the sidewalk in front of the business section on Saturday afternoon, December 11, 1943, and began to offer the magazines as just described [7-8, 45]. It was while they were thus engaged that Deputy Sheriff Chatham, who is employed by the Gulf Shipbuilding Corporation to police the development, placed appellant and her companion under arrest, and held them in the com-

pany office there for one or two hours [8, 45]. The officer said that he made this arrest on the order of Mr. Peebles, the manager of the housing development, who had instructed him to forcibly remove Jehovah's witnesses from the business-block at any time they appeared [8, 38]. Appellant was warned not to again distribute magazines in that area and was released [45, 50].

The following Saturday afternoon appellant, together with others of Jehovah's witnesses, again appeared on the business block. They were immediately arrested by the local Deputy Sheriff and taken to the Mobile County Jail, where, after some discussion, and further warning, they were released without charges being placed against them [9, 46].

A few days later, appellant called at the office of Mr. Peebles, the manager of the development, to straighten out, if possible, their differences. [41] At that time appellant advised him that they were engaged in a charitable Christian work as ordained ministers, and fully explained same to him. She offered him sample copies of both the magazines that Jehovah's witnesses desired to distribute and advised him that since their continuance in this God-given activity to them meant everlasting 'life or death' at the hand of Almighty God, they would have to insist on their constitutional right to distribute this printed message of God's kingdom to the people in the manner aforesaid. [46, 42] Mr. Peebles told them that regardless of their understanding, they would first have to obtain a permit to carry on their work and that he was not willing to issue such a permit. [33] Further, he specifically warned them not to come on the streets again [33].

On Saturday, December 24, 1943, appellant and two companions appeared with their magazines on the sidewalk in front of the business center, one standing in the center of

the block and the other two at opposite ends [4]. They were immediately accosted by Mr. Chatham, the company police officer, who again informed them that they could not carry on their activity without a permit and called their attention to the notice (State's Exhibit 2) posted in the shop windows. [4, 48] Appellant testified that she then "reminded him we were *ordained ministers* and that was the right granted to us by the Constitution; we were commanded by Almighty God to do this and we couldn't ask man for permits to do this work; we were not peddlers and we were not soliciting for anything, we were simply there carrying on our Christian educational work in an orderly manner" [47]. This was confirmed by the officer [4, 18].

The officer then placed them under arrest, put them in his car and started toward the police station. However, he circled the block before going to the station, and as he came back around he found that three others had taken the place on the street of those he had just arrested, so he stopped and took them into custody also [5]. The group was then taken to the Sheriff's office in Mobile where charges of "trespass after warning" were placed against them.

Grounds and Decisions Sustaining Appellate Jurisdiction of the Supreme Court of the United States and Showing Federal Questions Involved on Appeal.

ONE

The statute and regulation insofar as they have been construed and applied by the court below to allow the owner of the sidewalks and street arbitrarily to prohibit appellant from distributing thereon in an orderly manner Bible literature explaining God's Kingdom, constitute an unreasonable abridgment of appellant's rights of freedom of speech, press, assembly and worship, contrary to the First

and Fourteenth Amendments to the United States Constitution.

A

The use to which the property in question has been dedicated by the Gulf Shipbuilding Corporation and to which it has been put by the people creates a relationship between the owner and the public similar to that existing between a municipal corporation and its constituents, and thus the constitutional limitations applicable to ordinances of municipal corporations likewise apply to the Gulf Shipbuilding Corporation acting as a *de facto* municipal corporation.

Hague v. *C. I. O.*, 307 U. S. 496 (1938);
Jamison v. *Texas*, 318 U. S. 413 (1943);
Thornhill v. *Alabama*, 310 U. S. 88 (1940);
Republic Aviation Corporation v. *N. L. R. B.*, No. 226, Oct. Term 1944, — U. S. —, decided April 23, 1945.

B

The statute and regulation are unconstitutional insofar as they have been construed and applied by the court below to be a means of enforcing with criminal sanctions the regulation of the Gulf Shipbuilding Corporation that Jehovah's witnesses obtain a permit from the housing manager of the town before preaching the gospel by means of distributing printed Bible sermons to people passing along the street and sidewalk in question.

Blue Island v. *Kozul*, 379 Ill. 511, 41 N. E. 2d 868 (1942);
Borchert v. *Ranger*, 42 F. Supp. 577 (1941);
Cantwell v. *Connecticut*, 310 U. S. 296 (1940);
Emch v. *Guymon*, 75 Okla. Cr. 1, 127 P. 2d 855 (1942);
Florida ex rel. Hough v. *Woodruff* 147 Fla. 299, 2 S. 2d 577 (1941);

Florida ex rel. Wilson v. *Russell* 146 Fla. 539, 1 S. 2d 569 (1941);
Largent v. *Texas*, 318 U. S. 418 (1943);
Lovell v. *Griffin*, 303 U. S. 444 (1938);
Tucker v. *Randall*, 18 N. J. Misc. 675, 15 A. 2d 324 (1940).

C

The statute and regulation are unconstitutional insofar as they have been construed and applied by the court below to be a means of enforcing with criminal sanctions the absolute prohibition imposed by the Gulf Shipbuilding Corporation on the activity of Jehovah's witnesses in preaching the gospel by means of distributing printed Bible sermons to persons passing along the street and sidewalk in question.

Carlson v. *California*, 310 U. S. 106 (1940);
Jamison v. *Texas* 318 U. S. 413 (1943);
Jones v. *Opelika*, 316 U. S. 584 (1942), reversed at 319 U. S. 103 (1943);
Near v. *Minnesota*, 283 U. S. 697 (1931);
Thornhill v. *Alabama*, 310 U. S. 88 (1940);
Walrod, Ex parte, 73 Okla. Cr. 299, 120 P. 2d 783 (1941);
Winnett, Ex parte, 73 Okla. Cr. 332, 121 P. 2d 312 (1942);
Zimmermann v. *London*, 38 F. Supp. 582 (1941).

Two

As they have been construed and applied by the court below to abridge and deny appellant's constitutionally guaranteed rights of freedom of speech, press, assembly and worship, the statute, as well as the regulation, is presumptively unconstitutional, and which presumption the

State has failed to overcome by a showing that both of these enactments are reasonable and necessary means to prevent a clear, present and substantial danger to the public peace and order, or right of private property.

Bridges v. *California*, 314 U. S. 252, 262, 273 (1941);
Busey v. *Dist. of Columbia*, 138 F. 2d 592, 78 App. D. C. 189 (1943);
De Jonge v. *Oregon*, 299 U. S. 353 (1937);
Schneider v. *New Jersey*, 308 U. S. 147 (1939);
Thomas v. *Collins*, —— U. S. ——, 65 S. Ct. 315, 322 (1945);
Thornhill v. *Alabama*, 310 U. S. 88 (1940);
West Virginia State B'd of Educ'n v. *Barnette*, 319 U. S. 624, 638 (1943);
United States v. *Carolene Prod. Co.*, 304 U. S. 144, 152 (1938);
Jackson, Robert H., The Struggle for Judicial Supremacy (New York, Knopf, 1941), p. 285.

THREE

The statute and the regulation are unconstitutional on their face and as construed and applied by the courts below in that they are not narrowly drawn laws in either case defining and punishing specific conduct, but both are vague, indefinite, uncertain, too general, and both fail to furnish a sufficiently ascertainable standard of guilt, permit speculation and amount to a dragnet, contrary to the due process and equal protection clauses of the Fourteenth Amendment to the Federal Constitution.

Connally v. *General Constr. Co.*, 269 U. S. 385, 391, 392 (1925);
De Jonge v. *Oregon*, 299 U. S. 353 (1937);
Herndon v. Lowry, 301 U. S. 242 (1936);
Lanzetta v. New Jersey, 306 U. S. 451 (1939);

New Jersey v. *Klapprott*, 127 N. J. L. 359, 22 A. 2d 877 (1941);
Small Co. v. *American Sugar Ref'g. Co.*, 267 U. S. 233 (1925);
Smith v. *Cahoon*, 283 U. S. 553, 564 (1930);
Stromberg v. *California*, 283 U. S. 359 (1931);
Thornhill v. *Alabama*, 310 U. S. 88, 100 (1938);
Tozer v. *United States*, 52 F. 917, 919 (1892);
United States v. *Capital Traction Co.*, 34 App. D. C. 592 (1910);
United States v. *Cohen Grocery Co.*, 255 U. S. 81 (1920);
Weeds, Inc. v. *United States*, 255 U. S. 109 (1920).

DISCUSSION

One

The statute and regulation insofar as they have been construed and applied by the court below to allow the owner of the sidewalks and street arbitrarily to prohibit appellant from distributing thereon in an orderly manner Bible literature explaining God's kingdom, constitute an unreasonable abridgment of appellant's rights of freedom of speech, press, assembly and worship, contrary to the First and Fourteenth Amendments to the United States Constitution.

A

The use to which the property in question has been dedicated by the Gulf Shipbuilding Corporation and to which it has been put by the people creates a relationship between the owner and the public similar to that existing between a municipal corporation and its constituents, and thus the constitutional limitations applicable to ordinances of municipal corporations likewise apply to the Gulf Shipbuilding Corporation acting as a de facto *municipal corporation.*

Public streets, highways, sidewalks, parks and similar places, have from the very earliest times been devoted to the convenience of inhabitants of communities which they serve. Not only have they been used for the purposes of travel, but it is a fact of which this court can take judicial notice that those public places are commonly used for other purposes. Without exhaustively reviewing all the usual purposes to which public streets in particular are devoted, it will suffice for needs of this case to state that they have, from time immemorial, been recognized as a place for men to communicate ideas and discuss problems of general interest. This principle is cogently stated in the recently decided case of *Hague* v. *C. I. O.*, 307 U. S. 496 (1938), in which Mr. Justice Roberts, speaking for the Supreme Court of the United States, declared:

> "Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights and liberties of citizens."

Thus it was that, in 1943, the city of Dallas, Texas, sought before the United States Supreme Court, in the case of *Jamison* v. *Texas*, 318 U. S. 413 (1943), to justify the operation of an ordinance which absolutely forbade the distribution of handbills on its streets. Dallas had established that under Texas statutes it had complete ownership and absolute control of the streets and therefore it relied on the precedent of *Davis* v. *Massachusetts*, 167 U. S. 43 (1897), as its authority. This gave the Supreme Court opportunity to state specifically that the rule in the *Davis* case was no longer the law, and that such an ordinance was unconstitu-

tional and void when construed and applied to the activity of Jehovah's witnesses, the very activity involved in the instant controversy.

In *Thornhill* v. *Alabama*, 310 U. S. 88 (1940), a case involving an anti-picketing statute of this State, the United States Supreme Court recognized the fact that the picketing was being done on privately owned company property and not on municipally owned sidewalks. The court's description of the property bears a striking and significant resemblance to the facts in this case:

> "The picket posts appear to have been on 'Company property, 'on a private entrance for employees, and not on any public road.' One witness explained that practically all of the employees live on Company property and get their mail from a post office on Company property."

Despite the fact that in that case the State made much of its contention that since the picketing was done on private property as distinguished from public property, the pickets could not claim infringement of the rights of freedom of speech and press, the court observed in a footnote on the last page of the opinion that this contention was "without significance." Under the doctrine in the *Thornhill* case it cannot be now doubted that workers have a right peaceably to express their views concerning their employment relations (i. e., to "picket") even though such be done on privately owned streets of the company being thus picketed. If pickets have the right to express their views on such company owned streets, certainly Jehovah's witnesses have a right to impart their views to the public on company owned streets. Had appellant here and her companions been pickets involved in a labor dispute with the Gulf Shipbuilding Corporation, it could scarcely be doubted that the *Thornhill* case would be controlling. The circumstances are

so analogous that it is a very persuasive authority in this controversy.

In the two cases of *Republic Aviation Corporation* v. *N. L. R. B.* (No. 226) and *N. L. R. B.* v. *Le Tourneau Company of Georgia* (No. 452), 13 LW 4367, decided April 23, 1945, situations analogous to the instant case were presented. In the *Le Tourneau* case a corporation owning a large tract of land upon which its factory buildings were located, adopted the following rule:

> "In the future no Merchants, Concern, Company or Individual or Individuals will be permitted to distribute, post or otherwise circulate handbills or posters, or any literature of any description on Company property without first securing permission from the Personnel Department."

That rule the Company enforced against certain of its employees who were distributing union leaflets on company owned property. The controversy was taken before the National Labor Relations Board where it was held that the enforcement of such rule violated the right of the employees to organize into unions, free from interference of the employer, as guaranteed by the National Labor Relations Act. This holding of the Board was sustained by the United States Supreme Court, *in spite of the fact that the activity involved took place entirely on company owned property.*

The same result was reached in the *Republic Aviation Corporation* case.

Now, if the right of private property held by the companies in those cases did not justify the rule when applied contrary to the National Labor Relations Act, neither will it, in the instant case, justify application of a rule contrary to the Constitution of the United States. Certainly the specific guarantees of freedom of speech, press, and worship, as set out in the First Amendment, are more com-

pelling in their operation than rights created under the National Labor Relations Act. Therefore, it is submitted that the company cannot in this case take refuge behind its right of property and ignore the constitutional rights of the people residing on said property to receive the message of Jehovah's witnesses, any more than it could deny their rights under the National Labor Relations Act.

From these cases, then, this important and controlling principle may be formulated, to wit: Under the protection afforded by the Constitution to the rights of freedom of speech, press, assembly and worship, the people have the inherent, "imprescriptible" right to use the public ways and streets in the orderly exercise of such freedoms, regardless of the fact that the municipality may own the fee of the property and have absolute control thereof. Therefore, as will be seen, the problem is unaffected by reason of the fact that a private, as distinguished from a municipal, corporation owns the fee of the street and sidewalk.

In all these cases decided by the Supreme Court of the United States, the state or municipal corporations (as the case has been) have argued in one way or another that by virtue of their title to the streets and sidewalks, they could regulate, prohibit and censor all activity carried out upon the street even though such activity involved freedom of speech, press, assembly and worship. But this contention has been specifically rejected by the United States Supreme Court, and it is held that the right of the public to use the streets for the purpose of dissemination of information and opinion transcends rights flowing from state or municipal ownership of the streets to control use of the streets.

A private corporation owning a town and its streets has no higher right than does a municipal corporation. The Gulf Shipbuilding Corporation has no right to regulate, censor or prohibit press and related activities upon the

streets any more than a municipal corporation of a state possesses such right. In this case the record shows, and all the witnesses freely admitted, that the streets of Chickasaw are used in the same way and for the same purpose as are the streets of any other city, town or village. The private corporation enjoys a relation toward the public using the streets in this case similar to that of a municipal corporation. It is a *de facto* municipal corporation. Apparently it employs its own firemen and policemen [8] and maintains its system of streets and sidewalks. It does everything for the people residing therein that a regular municipality does for its constituents.

That being true, it is plain that since a municipal corporation cannot prohibit, censor or unreasonably restrict the activity of Jehovah's witnesses upon its public streets, then, by force of the same reasoning, this private corporation, claiming the same title to the streets of Chickasaw, cannot prohibit, censor or control the activity of Jehovah's witnesses in this case. *A fortiori*, they cannot be convicted under the statute in this case without bringing the statute into collision with the Constitution of the United States and this state, resulting in a violation of appellant's rights of freedom of press, speech, assembly and worship of Almighty God.

The courts cannot sanction a town or village virtually seceding from the Constitutional Union merely because it is privately owned. In approaching the constitutional aspects of this case, it must be recognized, therefore, that the problem presented is not unusually complicated because the street and sidewalk concerned are located on property owned and maintained by a *de facto* municipal corporation rather than by a regular municipal corporation.

"In what respect could it be said that the nature of the ownership of the street and sidewalk in question was more

complete than that of the State over its highways acquired by right of eminent domain? There is absolutely no difference in the extent of the ownership. The controlling consideration is that the incidents took place on a street open to the general public, and used by the general public in the same manner as other streets in and around Mobile are used. As said in *Hague* v. *C. I. O.*, 307 U. S. 496, 'Wherever the title of streets may rest, they have immemorially been held in trust for the use of the public for purposes of discussing public questions.' Thus it is the *use* to which the property has been dedicated that determines the constitutional rights of the people thereon, and not the technical question of ownership. Here the Gulf Shipbuilding Corporation has seen fit to lay out a small community or village on its property. It connected the shopping district with a public highway, thereby extending to the general public an easement to enter at will for all public purposes.

Having established, therefore, that the owner of the street and sidewalk in question was in truth a *de facto* municipal corporation bearing the same duties and responsibilities to the people as any regular municipal corporation might, the unconstitutionality of the statute, as it has been construed and applied to enforce the demands of the Gulf Shipbuilding Corporation, may be considered in the searching light of the "Bill of Rights."

B

The statute and regulation are unconstitutional insofar as they have been construed and applied by the court below to be a means of enforcing with criminal sanctions the regulation of the Gulf Shipbuilding Corporation that Jehovah's witnesses obtain a permit from the housing manager of the town before preaching the gospel by means of distributing

printed Bible sermons to people passing along the street and sidewalk in question.

The Gulf Shipbuilding Corporation through its duly constituted agents demanded that appellant go to the office of the manager of its housing division and obtain a permit before the appellant proceeded to carry on her work. Had she applied for and secured such a permit, she could have gone on undisturbed in her activity. But she admittedly did not apply for a permit and the manager testified that even though she had so applied he would not have granted the permit [33]. The granting of the permit was a matter strictly within the discretion of the manager. He could arbitrarily grant or refuse to grant the permit without assigning any reason. Because appellant refused to submit to this rule, the manager caused her arrest under the trespass statute of the state, thereby enforcing his rule with criminal sanctions.

Within recent years the Supreme Court of the United States has had frequent opportunity to consider the constitutionality of such censorship laws as they have been construed and applied to the activity of Jehovah's witnesses identical with that involved here. Most recent of these cases is *Largent v. Texas*, 318 U. S. 418 (1943). There Mr. Justice Reed says:

> "Upon the merits, this appeal is governed by recent decisions of this Court involving ordinances which leave the granting or withholding of permits for the distribution of religious publications in the discretion of municipal officers.* [* Lovell v. Griffin, 303 U. S. 444, 447, 451; Schneider v. State, 308 U. S. 147, 157, 163; Cantwell v. Connecticut, 310 U. S. 296, 302.] It is unnecessary to determine whether the distributions of the publications in question are sales or contributions. The mayor issues a permit only if after thorough investigation he 'deems it proper or advisable.' Dissemination of ideas depends upon the approval of

the distributor by the official. This is administrative censorship in an extreme form. It abridges the freedom of religion, of the press and of speech guaranteed by the Fourteenth Amendment."

Similar holdings have been made in other cases involving Jehovah's witnesses:

Emch v. *Guymon*, 75 Okla. Cr. 1, 127 P. 2d 855 (1942);
Blue Island v. *Kozul*, 379 Ill. 511, 41 N. E. 2d 515 (1942);
South Holland v. *Stein*, 373 Ill. 472, 26 N. E. 2d 868 (1940);
Tucker v. *Randall*, 18 N. J. Misc. 675, 15 A. 2d 324 (1940);
State ex Rel. Wilson v. *Russell*, 146 Fla. 539, 1 S. 2d 560 (1941);
State ex Rel. Hough v. *Woodruff*, 147 Fla. 299, 2 S. 2d 577 (1941);
Borchert v. *Ranger*, 42 F. Supp. 577 (1941);
Commonwealth v. *Homer*, 153 Pa. S. C. 433, 34 A. 2d 169 (1943);
Commonwealth v. *Akmakjian*, — Mass. —, 55 N. E. 2d 6 (1944).

Therefore it is well settled that laws requiring the obtaining of a permit or license are unconstitutional, void, and cannot support a conviction when applied to the activity of Jehovah's witnesses in preaching the gospel, as attempted in this case.

C

The statute and regulation are unconstitutional insofar as they have been construed and applied by the court below to be a means of enforcing with criminal sanctions the absolute prohibition imposed by the Gulf Shipbuilding Corporation on the activity of Jehovah's witnesses in preaching the

gospel by means of distributing printed Bible sermons to persons passing along the street and sidewalk in question.

The Gulf Shipbuilding Corporation did not seek merely to regulate the activity of appellant on the sidewalk and street.

It never sought to impose or request observance of any rule regarding the time or manner in which the activity could be carried on. It arbitrarily ruled that the property was private and that the activity of Jehovah's witnesses would not be tolerated thereon. Obviously this is a downright prohibition not based on any interest the corporation might have in reasonably regulating its streets. The trespass statute here invoked becomes unconstitutional insofar as it provides means of enforcement of this rule.

Even in the United States Supreme Court's now reversed[3] opinion in *Jones* v. *Opelika*, 316 U. S. 584, 595-596 (1942), given to sustain its decision adverse to Jehovah's witnesses on the validity of peddlers' license-tax ordinances of certain municipalites, the majorty declared,

> "Ordinances absolutely prohibiting the exercise of this right to disseminate information are, *a fortiori*, invalid."

This was definitely settled in *Jamison* v. *Texas*, 318 U. S. 413 (1943).

An ordinance which prohibits distribution of literature within a certain section of a city, such as the congested business district, has been declared unconstitutional. *Ex parte Walrod*, 73 Okla. Cr. 299, 120 P. 2d 783 (1941); *Ex parte Winnett*, 73 Okla. Cr. 332, 121 P. 2d 312 (1942). Laws absolutely prohibiting distribution of literature when applied to the activity of Jehovah's witnesses are unconstitutional and void and of no force and effect. *Common-*

[3] 319 U. S. 103.

wealth v. *Anderson*, 308 Mass. 370, 32 N. E. 2d 684 (1941). See, also, *Thornhill* v. *Alabama*, 310 U. S. 88 (1939); *Carlson* v. *California*, 310 U. S. 106 (1939); *Near* v. *Minnesota*, 283 U. S. 697 (1931); *Zimmermann* v. *London*, 38 F. Supp. 582 (1941).

Two

As they have been construed and applied by the court below to abridge and deny appellant's constitutionally guaranteed rights of freedom of speech, press, assembly and worship, the statute, as well as the regulation, is presumptively unconstitutional, and which presumption the state has failed to overcome by a showing that both of those enactments are reasonable and necessary means to prevent a clear, present and substantial danger to the public peace and order, or right of private property.

The trespass statute under which appellant has been convicted is enacted under the "police authority" of the state. Of course the State is given a wide discretion in the use of such authority and the courts uniformly apply what is known as a "presumption of validity" to the legislative declarations enacted under its police power. However, when so-called "police legislation" either on its face or as construed and applied infringes on the domain of these freedoms it is at once thrown back if those who seek to enforce its restraint fail to surmount the presumption of invulnerability which surrounds the "four freedoms" by establishing (1) a clear, present and substantial danger to the public welfare or right of private property, and (2) that it is a reasonable means to the end sought to be accomplished and is not arbitrary, unreasonable or oppressive. The showing of some *abuse* of the constitutionally secured freedoms is a condition precedent to the exercise of the police power where such exercise of power has a tendency to limit, infringe, restrict or prohibit any of the

constitutional freedoms. The police power dare not intrude unless there is a clear showing of the *abuse*. This rule is well stated by Chief Justice Hughes in *De Jonge* v. *Oregon*, 299 U. S. 353 (1937):

> "The people through their legislatures may protect themselves against that abuse. But the legislative intervention can find constitutional justification only by dealing with the abuse. The rights themselves must not be curtailed. * * * Therein lies the security of the republic, the very foundation of constitutional government."

This same rule was effectively applied by the United States Court of Appeals for the District of Columbia in *Busey* v. *District of Columbia*, 78 App. D. C. 189, 138 F. 2d 592 (1943), executing mandate at 319 U. S. 579. In that case an occupational license tax was sought to be applied to the activity of Jehovah's witnesses. The controversy reached the United States Supreme Court after the precedent case of *Murdock* v. *Pennsylvania*, 319 U. S. 105 (1943), had been decided. The Supreme Court remanded the case to the Court of Appeals for further consideration; and upon such reconsideration Mr. Justice Edgerton, speaking for the court, held:

> "Freedoms of speech, press, and religion are entitled to a preferred constitutional position because they are 'of the very essence of a scheme of ordered liberty.' (Palko v. Connecticut, 302 U. S. 319, 325.) They are essential not only to the persons or groups directly concerned but to the entire community. Our whole political and social system depends upon them. * * *
>
> "*We think we may now hold that when legislation appears on its face to affect the use of speech, press, or religion, and when its validity depends upon the existence of facts which are not proved, their existence*

> *should not be presumed;* at least when their existence is hardly more probable than improbable, and particularly when proof concerning them is more readily available to the government than to the citizen. *The burden of proof in such a case should be upon those who deny that these freedoms are invaded.* * * * No presumption which lacks a probable basis in fact should be permitted to conceal an interference with essential freedoms." (Italics added.)

The decision of the United States Supreme Court in *United States* v. *Carolene Products Co.*, 304 U. S. 144, 152 (1938); *West Virginia State Board of Education* v. *Barnette*, 310 U. S. 624, 638-640; *Thornhill* v. *Alabama*, 310 U. S. 88 (1940); and *Schneider* v. *New Jersey*, 308 U. S. 147, all apply this same rule.

In the enclosure of civil rights and fundamental personal liberties secured by the express guarantees of above cited portions of the Federal Constitution, there is not established a broad channel in which the government and the courts may operate according to their discretion. The people, by these specific constitutional provisions, have definitely narrowed the channel of regulation and governmental activity and walled them in by high banks of rock, as it were, on both sides of the governmental waters. This is to prevent a change of course of the stream and to keep the way straight and narrow. If the government gets out of its fixed course in these precious fields, there immediately arises a presumption of invalidity and unconstitutionality to throw back the stream of regulatory practice into the fixed channel properly made by the people through their Constitution.

The construction and application given to the statute by the court below are as mere flood waters which are out of the course established by the people. It is the purpose of

this discussion to show how they should be rightly returned to their proper place and recede from the field of fundamental personal liberties belonging to appellant and those similarly situated.

In his book "The Struggle for Judicial Supremacy" (New York, Knopf, 1941), Robert H. Jackson, now Associate Justice of the Supreme Court of the United States, says (p. 285):

> "The presumption of validity which attaches in general to legislative acts is frankly reversed in the case of interference with free speech, free press and free assembly, and for a perfectly cogent reason. Ordinarily, legislation whose basis in economic wisdom is uncertain can be redressed by the processes of the ballot box or the pressures of opinion. But when the channels of opinion and of peaceful persuasion are corrupted or clogged, these political correctives can no longer be relied on, and the democratic system is threatened at its most vital point. In that event the court, by intervening, restores the processes of democratic government; it does not disrupt them."

Because the State has failed to discharge its burden of proving a clear and present danger of substantial evils to the community, the conviction cannot be sustained. In holding that a clear and present danger test must be applied to police-power abridgements of the liberties protected by the First Amendment, the United States Supreme Court in the "labor organizer" case of *Thomas* v. *Collins*, 65 S. Ct. 315, 322 (1945), said:

> "The case confronts us again with the duty our system places on this Court to say where the individual's freedom ends and the State's power begins. Choice on that border, now as always delicate, is perhaps more so where the usual presumption supporting legislation is balanced by the preferred place given in our scheme to the great, the indispensable democratic free-

doms secured by the First Amendment. [Cases cited.] That priority gives these liberties a sanctity and a sanction not permitting dubious intrusions. And it is the character of the right, not of the limitation, which determines what standard governs the choice. Compare United States v. Carolene Products Co., 304 U. S. 144, 152, 153.

"For these reasons any attempt to restrict those liberties must be justified by clear public interest, threatened not doubtfully or remotely, but by clear and present danger. The rational connection between the remedy provided and the evil to be curbed, which in other contexts might support legislation against attack on due process grounds, will not suffice. These rights rest on firmer foundation."

Judged by these standards, it is clear that appellant's conduct in the Village, under the circumstances shown, did not and could not constitute any clear and present danger which would justify an application of the police power that would work to curtail the precious personal liberties secured by the Constitution.

THREE

The statute and the regulation are unconstitutional on their face and as construed and applied by the courts below in that they are not narrowly drawn laws in either case defining and punishing specific conduct, but both are vague, indefinite, uncertain, too general, and both fail to furnish a sufficiently ascertainable standard of guilt, permit speculation and amount to a dragnet, contrary to the due process and equal protection clauses of the Fourteenth Amendment to the Federal Constitution.

It will be noted from a reading of the statute in question that the imposition of the penal sanction is provided for in every case where a person enters on the premises of

another and, after being warned to leave, "fails or refuses [so to do], without legal cause or good excuse". Ultimately, therefore, the guilt or innocence of any particular individual who refuses, after warning, to leave the premises of another, is made to depend entirely on the view of the court or jury as to whether he had "legal cause or good excuse". Two questions at once suggest themselves: (1) What is the meaning of the phrase, and (2) Does the phrase as used in the statute prescribe with sufficient definiteness the limits of permissible conduct and warn against transgression?

The United States Supreme Court answered both of those questions in *Thornhill* v. *Alabama*, 310 U.S. 88, 100 (1939). As to the first question the court observed,

> "The phrase 'without just cause or legal excuse' does not in any effective manner restrict the breadth of the regulation; the words themselves have no ascertainable meaning either inherent or historical. Compare *Lanzetta* v. *New Jersey*, 306 U. S. 451, 453-455. So far as the phrase may have been given meaning by the State courts it apparently grants authority to the court and the jury to consider defensive matter brought forward by the accused, depending for its sufficiency not upon rules of general application but upon the peculiar facts of each case."

From this it is seen, therefore, that the court or the jury is not given any definite or reasonably ascertainable rules by which to judge the conduct of persons charged with a violation of this statute. They are forced to speculate on the evidence, and judge the defendant according to his own concept of what constitutes "legal cause or good excuse."

As to the second question, the United States Supreme Court was equally definite in its answer. It said (pp. 97-98):

> "It is not merely the sporadic abuse of power by the censor but the pervasive threat inherent in its very

existence that constitutes the danger to freedom of discussion * * * A like threat is inherent in a penal statute, * * * which does not aim specifically at evils within the allowable area of statute control but, on the contrary, sweeps into its ambit other activities that in ordinary circumstances constitute an exercise of freedom of speech or of the press. The existence of such a statute, which readily lends itself to harsh and discriminatory enforcement by local prosecuting officials, against particular groups deemed to merit their displeasure is a continuous and pervasive restraint on all freedom of discussion that might reasonably be regarded as within its purview. It is not any less effective or, if the restraint is not permissible, less pernicious than the restraint on freedom of discussion imposed by the threat of censorship * * * Where regulations of the liberty of free discussion are concerned, there are special reasons for observing the rule that it is the statute, and not the accusation or the evidence under it, which prescribes the limits of permissible conduct and warns against transgression."

It would certainly be impossible for a citizen to tell in advance, just what the court or jury might consider a "legal cause or good excuse". However true it may be that the evidence would ultimately show that the defendant did not have legal cause or good excuse, this does not cure the defect in the statute itself, which does not sufficiently forewarn the people as to just what conduct is unlawful. Had the statute in this case been sufficiently clear in its definition of the conduct made unlawful, this case would never have arisen in its present state of complication.

The due process clause requires that criminal statutes shall be so framed that those to whom they are addressed may know what standard of conduct is intended to be required, so that men may guide their steps accordingly. *United States* v. *Capital Traction Co.*, 34 A. D. C. 592; *Tozer*

v. *United States*, 52 F. 917 (1892); *United States* v. *Cohen Grocery Co.*, 255 U. S. 81.

The question here presented was specifically disposed of in *Herndon* v. *Lowry*, 301 U. S. 242 (1936), where Mr. Justice Roberts said:

> "* * * No reasonably ascertainable standard of guilt is prescribed. So vague and indeterminate are the boundaries thus set to the freedom of speech and assembly that the law necessarily violates the guarantees of liberty embodied in the Fourteenth Amendment."

In *Stromberg* v. *California*, 283 U. S. 359 (1931), the California statute was declared unconstitutional because of its vagueness and indefiniteness. See also *De Jonge* v. *Oregon*, 299 U. S. 353 (1937).

In *Lanzetta* v. *State*, 306 U. S. 451 (1939), in declaring the New Jersey "gang law" invalid, Mr. Justice Frankfurter said: "If on its face the challenged provision is repugnant to the due process clause, specification of details of the offense intended to be charged would not serve to validate it. * * * It is the statute, not the accusation under it, that prescribes the rule to govern conduct and warns against transgression. * * * No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids. * * * The applicable rule is stated in *Connally* v. *General Const. Co.*, 269 U. S. 385, 391."

The New Jersey Supreme Court, in *New Jersey* v. *Klapprott*, 127 N. J. L. 359, 22 A. 2d 877 (1941), declared the "Anti-Nazi Law" of New Jersey invalid as construed to the hate speeches of the Nazi Bund members inciting violence against the Jews. In setting aside the convictions that court found the statute vague, indefinite and a dragnet.

The court said: "Suppose such statement was made in the privacy of one's home to two persons there present, or, as it is suggested in the excellent brief of the *amicus curiae*, suppose a father is instructing his children about the religion of a neighbor and such exposition excites hostility in the children towards those neighbors. This exposition or statement of view would result in the commission of a misdemeanor under the scope of this most sweeping statute. It is not required that the statement be made in a public place. Teachers in our high schools and colleges could be found to be violators of the law out of their lectures on the philosophy of history, or their dissertations on religion, or on the various cults which came into being through the years."

In further support of the contention here urged reference is made to *Smith* v. *Cahoon*, 283 U. S. 553, 564 (1930); *New Jersey* v. *Klapprott*, 127 N. J. L. 359, 22 A. 2d 877 (1941); *Connally* v. *General Const. Co.*, 269 U. S. 391, 392 (1925); *Small* v. *American Sugar Ref'g Co.*, 267 U. S. 233 (1925); *Weeds, Inc.* v. *United States*, 255 U. S. 109 (1920).

The very fact that the appellant and her companions, as faithful followers of Jesus Christ who refuse to break their integrity to Almighty God and who are guilty of no wrong, have been convicted is proof conclusive that the statute is a dragnet. The statute depends for its enforcement, meaning, and understanding upon the political views, whims and opinions of individuals, and not upon defined precise rules of law, equally and equitably applicable at all times throughout the state.

It is respectfully submitted that the statute prescribes no ascertainable standard of guilt and is a dragnet allowing deprivation of liberty in violation of the Fourteenth Amendment to the United States Constitution and the similar provision in the Alabama Constitution.

Conclusion

WHEREFORE the Supreme Court of the United States should note jurisdiction of this cause for final hearing in accordance with the rules of the court, because the court below disposed of important and substantial federal questions in a way that is in conflict with applicable decisions of the nation's highest court, and has so radically and far departed from the Constitution of the United States and the accepted sound course of judicial procedure as to call for exercise by the Supreme Court of the United States of its power of supervision and review to halt the same.

Respectfully submitted,

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APPENDIX

THE STATE OF ALABAMA, JUDICIAL DEPARTMENT, THE ALABAMA COURT OF APPEALS, OCTOBER TERM, 1944-45

1 Div. 479

GRACE MARSH

v.

STATE

Appealed from Mobile Circuit Court

RICE, *Judge:*

There is a Statute of Alabama reading in pertinent part as follows, to-wit: "Any person who, without legal cause or good excuse, enters * * * on the premises of another, after having been warned, within six months preceding, not to do so; or any person, who, having entered * * * on the premises of another without having been warned within six months not to do so, and fails or refuses, without legal cause or good excuse, to leave immediately on being ordered or requested to do by the person in possession, his agent or representative, shall, on conviction, be fined not more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months." Code 1940, Title 14, Section 426.

Appellant was convicted of a violation of the terms of the above Statute; the specific charge against her being that she "without legal cause or good excuse and after having been warned within the past six months not to do so, entered upon the premises of the Gulf Shipbuilding Corporation, a Corporation, contrary to law and against the peace and dignity of the State of Alabama."

She was tried before the Court, sitting without a jury, and assessed a fine of fifty dollars.

The material circumstances, as we will endeavor to state them from the record, are that the land upon which appellant entered, and was arrested, originally belonged to the Tennessee Land Company, a Corporation. While in the possession of this Company it erected thereon what is described in the testimony as a "business block."

This "business block" consisted of one building, divided by suitable partitions into several stores, or business places. It fronted toward a public highway, but the front was some 40 or 59 or 30 feet distant from the said highway.

In front of the "business block," running all the way across—some 250 feet—and parallel to the public highway, but upon the private property of the Tennessee Land Company, it had constructed a paved road way. Between this paved roadway and the front of the "business block," there was a paved sidewalk constructed at the same time as, and as a part of, the said "business block." The paved roadway was separated from the public highway by an unpaved portion of the land of the Tennessee Land Company; and the paved sidewalk was separated from the paved roadway by a likewise unpaved strip of land.

All this was done more than twenty years before the beginning of this prosecution; but there is no dispute but that the Tennessee Land Company, and its successors in interest, throughout that time exercised full control over the paved sidewalk mentioned,—the paved roadway being not now involved—as part of its private property. The stores, or business places, in the so-called "business block," were rented separately to various and sundry parties during these years; and, of course, the paved sidewalk served, without objection on the part of the Tennessee Land Company and its successors in title, the customers of these establishments.

But the testimony is without dispute that throughout the time in question, the Tennessee Land Company and its successors paid the taxes upon and maintained control of the sidewalk in question, along with all its other private property—and that people going upon it for any other purpose than as a means of ingress and egress to and from the stores or business places mentioned were required to procure "permits" from it or them.

It should perhaps be here noted that the property in question, including the sidewalk, was transferred by proper conveyances to the Gulf Shipbuilding Corporation prior to the time of the incidents leading to this appeal.

There is really no great dispute as to the facts in the case. Appellant, admittedly, or without conflict in the testimony, was duly and properly warned, "within six months preceding" her arrest not to go upon the premises of the Gulf Shipbuilding Corporation.

She did so go upon them—that is, the sidewalk, above, which we will later a little more clearly demonstrate was the "premises" of said corporation, in the sense of the Statute quoted at the beginning of this opinion—and was there arrested on December 24th 1943, on the charge for which she was convicted—giving rise to this appeal.

Appellant is represented here by numerous counsel, who have, jointly, filed an exceedingly voluminous brief in her behalf. They would have us consider a wide variety of questions in reaching a decision in the case.

Among many other things, counsel say: "Petitioner (appellant) Grace Marsh is an ordained minister of the gospel, and as such is one of Jehovah's witnesses. The Watchtower Bible and Tract Society, under direction of which she carried forward her ministerial activities, issued to her a certificate of ordination and identification, which was introduced in evidence. * * * Therein it is explained that Jehovah's witnesses are true followers of Christ Jesus and are dedicated to the promulgation of His teachings among the people of good-will toward Almighty God. This is done in the apostolic manner as shown in the following scriptures cited from the Bible:

'And how I * * * have taught you publickly, and from house to house.' *Acts* 20:20.

'Go ye into all the world, and preach the gospel to every creature.' *Mark* 16:15.

'And he [Jesus] went round about the villages, teaching.' *Mark* 6:6.

'And it came to pass afterward, that he went throughout every city and village, preaching and shewing the glad tid-

ings of the Kingdom of God: and the twelve were with him.' *Luke* 8:1.

"Petitioner (appellant) said that she devoted her entire life to this work. In addition to orally teaching the people concerning the Kingdom of God, she used various printed publications, such as books, booklets and magazines. Such she distributed to 'any person of good-will who desires to read them.' To the end that this may be accomplished in an orderly manner, the City of Mobile and surrounding communities had been divided up by Jehovah's witnesses into territory sections, and each minister given a section to serve.

"Chickasaw, Alabama, a suburb of Mobile, lies in the territory assigned to petitioner (appellant) * * * The place was owned and developed by the Tennessee Land Company."

We have already stated, hereinabove, of what the relevant development—the "business block"—consisted.

We continue with our quotation from appellant's brief, to wit: "In 1941 the Tennessee Land Company sold its property, including the business block in question, to the Chickasaw Development Company, which in turn was shortly absorbed into the Gulf Shipbuilding Corporation, the present owner.

"Representatives of both the present and former owners of the business block declared [and nobody disputed them, we interpolate] that there had never been an express dedication of the streets and sidewalks to the public use and that the owners had always paid taxes on the property thus being used."

However, appellant's counsel say: "The deed conveying the property in question to its present owner shows that there was a recognized dedication of the 'streets, alleys and public roads.' (Because) in the warranty section of the deed, the Grantor (Chickasaw Development Co. Inc.) put the following limitation: '* * * provided however that the warranties herein contained do not apply to areas or property located in any of the streets, alleys or public roads * * * and as to said streets, alleys, public roads * * * this instrument shall constitute a *quit-claim deed* only'." (Italics supplied by us.)

And then counsel say: "Furthermore, the evidence is undisputed that the sidewalks have never been restricted for the general, orderly use of the public, *peddling excepted.*" (Italics added by us.)

Appellant's counsel then quote the Tennessee Land Company's Manager who said he "never stopped anybody from using it (the sidewalk, where appellant was arrested, we interpolate) so long as they used it in an orderly and proper manner and were not there for any gainful purpose."

Counsel then say: "For approximately six months prior to December 24, 1943, Grace Marsh (this appellant) * * * had been engaged in the distribution of printed Bible literature to the people living in the Chickasaw development. It was her custom particularly to engage in the distribution of the *Watchtower* and *Consolation* magazines each Saturday afternoon on the sidewalk in front of the business block. This she would do by standing on the outer edge of the sidewalk near the curb displaying the magazines to the people passing up and down, at the same calling out in moderate tones, 'Watchtower, announcing Jehovah's Kingdom.' She insisted that the magazines were not for sale and that she was not selling them, but she explained that she offered this literature freely to all persons with whom she came in contact, giving such publications to those who desired to read and study same. The persons receiving this literature were given opportunity to contribute a small sum to assist in printing like literature and to further the charitable work in which she was engaged. But if the person was too poor or otherwise unable to contribute anything, and desired to have literature, she said she let such have the magazines without receiving any contribution."

It is then set out in appellant's brief filed here that she was detained on Dec. 11th 1943 by the officer policing Gulf Shipbuilding Corporation's property, for a short time, but released. After which she went to see Mr. Peebles, Gulf Shipbuilding Corporation's Vice-President in charge of the property in question, and told him that she was "engaged in a charitable Christian work as (an) ordained minister * * * and advised him that since her continu-

ance in this God-given activity to them (her) meant everlasting 'life or death' at the hand of Almighty God, they (she) would have to insist on their (her) constitutional right to distribute this printed message of God's Kingdom to the people in the manner aforesaid." Mr. Peebles told them (her) that regardless of their (her) understanding, they (*she*) would first have to obtain a permit to carry on their (her) work and that he was not willing to issue such a permit. Further he specifically warned them (her) not to come on the streets again.

Thereafter, on December 24th 1943, appellant appeared with her magazines on the sidewalk in front of the business block. They (she) was immediately accosted by Mr. Chatham, the Company (Gulf Shipbuilding Corporation) police officer, who again informed her that she could not carry on her activity without a permit. Appellant said she then "reminded him that we were ordained ministers and that was the right granted to us by the Constitution; we were commanded by Almighty God to do this and we couldn't ask man for permits to do this work; we were not peddlers and we were not soliciting for anything, we were simply there carry on our Christian educational work in an orderly manner."

The officer then placed them (her) under arrest.

We think what we have set forth, and quoted, hereinabove will make clear the basis for the conclusion we have reached.

The fact that all of the stores or business places, which were but "apartments," or "divisions" of the "business block"—consisting of one building—mentioned, were rented—but to different people or parties—at the time of the occurrence of the event giving rise to this prosecution, militated in no way against the possession and control—*otherwise* resting in it—of this "sidewalk" where appellant was arrested, being and remaining in Gulf Shipbuilding Corporation, whose authorized representative gave appellant due notice not to trespass thereon. *McMillan* v. *Solomon*, 42 Ala. 356.

And we find nothing in the testimony indicating that the owner of the land on which the sidewalk was constructed

had ever in any way relinquished its possession and control of the said sidewalk. The fact that the sidewalk was used freely, and without objection, by the public, solely as a means of ingress and egress to and from the stores in said "business block" was in no way a relinquishment by the owner of its title to same. See *Tutwiler Coal, Coke & Iron Co.* v. *Tuvin*, 158 Ala. 657, 48 S. 79.

In fact, the testimony is positively to the fact that throughout the years during which the sidewalk had been in existence the owner of the property had required "permits" to be procured from it by all those using it for any other purpose than as a means of ingress and egress to and from the stores in the said "business block".

Of course, for there to have been a "dedication" of the sidewalk in question to the use of the public, it must have been used by said public "*without let or hindrance*" for a period of twenty years prior to the time of the beginning of the prosecution. (Italics ours.) *Central of Georgia Ry.* v. *Faulkner*, 217 Ala. 82, 114 S. 686.

It has been said that "a public highway is one *under the control and kept by the public*, and must be either established in a regular proceeding for that purpose, or *generally* used by the public for 20 years, or dedicated by the owner of the soil and accepted by the proper authorities." (Italics supplied by us.) *Bellview Cemetery Co.* v. *McEvers*, 174 Ala. 457, 57 S. 375; and see *The Attorney General* v. *Lakeview Land Co.*, 143 Ala. 291, 39 S. 303.

Clearly, the fact that the *Chickasaw Development Co., Inc.* simply "quit-claimed" the "streets, alleys and public roads" on the property, operated to give the title to the "sidewalk" to the Gulf Shipbuilding Corporation in *exactly* the same way that it was held by the grantor.

No, the Gulf Shipbuilding Corporation had a perfect right to give to appellant, through its duly authorized representative as appears, the notice not to "trespass" upon the sidewalk where she was arrested.

And we come now to her real "defense"—that, as she says, to use her own words: "I reminded him (the officer, and agent of the Gulf Shipbuilding Corporation) we were ordained ministers and that was the right granted to us

by the Constitution; we were commanded by Almighty God to do this and we couldn't ask man for permits to do this work; we were not peddlers and we were not soliciting for anything, we were simply there carrying on our Christian educational work in an orderly manner."

Or, as her counsel state it: "The Statute (under which she is prosecuted), insofar as it has been construed and applied by the court below to allow the owner of the sidewalk and street arbitrarily to prohibit petitioners (appellant) from distributing thereon in an orderly manner Bible literature explaining God's Kingdom constitutes an unreasonable abridgement of petitioner's (appellant's) rights of freedom of speech, press, assembly and worship, contrary to the first and fourteenth amendments to the United States Constitution, and Article One, Sections 1, 3, 4, 6 and 25 of the Alabama Constitution."

In brief filed here on behalf of the State it is said: "Apparently appellant relies on the constitutional provisions protecting religious freedom as her chief and real defense. This defense seems to be presented on two theories. First, that our Statute is unconstitutional when one is charged with a trespass after warning if the defendant appears to be trespassing while engaged in propagating his religious views. Second, that a party engaged in such religious activities is within his constitutional rights whether he is acting in a public place or on private property. This is more chimerical than any of these numerous Jehovah Witnesses cases we have found." See *Sarah Prince* v. *Commonwealth of Massachusetts*, 88 L. Ed. 403.

We are not sure that we understand the language we have just quoted. If the able and distinguished Assistant Attorney General writing the brief meant by "this" in the last sentence of the quotation, a *holding* by any court that either of the "theories" he refers to constituted a *defense* to a charge such as is here involved, we agree with him.

But if he meant that either of the two "theories" were "more chimerical than any of these Jehovah Witnesses Cases we have found," we believe we can help him.

We seem to have found a case involving facts not distinguishable—in so far as the applicable law is involved—

from those shown by the undisputed testimony in the case. And, mutatis mutandis, we approve of the holding involved in the quotation we shall take from the annotation, appearing at page 655, following the report of the case of *Commonwealth of Massachusetts* v. *Noah S. Richardson (Com. Mass. v. Fred E. Stanton)* 146 A. L. R. 648, viz.: "In *State* v. *Martin* (1941) 199 La. 39, 5 S. 2d 377, the court sustained the constitutionality of a Statute penalizing any one who should enter upon private property after having been warned not to do so, as against the contention that it violated the First and Fourteenth Amendments to the Constitution of the United States, particularly the latter, forbidding any State to make or enforce any law which shall abridge the privileges or immunities of citizens of the United States or deprive any person of life, liberty, or property without due process of law or deny any person within its jurisdiction the equal protection of the laws, and the third and fourth sections of Article 1 of the Constitution of Louisiana, prohibiting any law 'to curtail or restrain the liberty of speech or of the press,' and providing: 'Every person has the natural right to worship God according to the dictates of his own conscience. No law shall be passed respecting an establishment of religion, nor prohibiting the free exercise thereof; nor shall any preference ever be given to, nor any discrimination made against, any church, sect, or creed of religion, or any form of religious faith or worship,' as applied to the defendant and her co-defendants, who were ordained ministers of the gospel of the organization known as Jehovah's witnesses and whose duties were to visit people in their homes and present to them recorded Bible lectures, Bibles, and Christian pamphlets and literature, and who in the performance of those duties entered upon private property 'sufficiently posted by the owner warning trespassers off,' and after an additional verbal warning by the owner, continued to propound their ideas verbally and through the use of phonograph records. The court said: 'The argument of the relatrix is that, because she and her companions were engaged in such praiseworthy work, preaching Christianity and distributing Christian pamphlets and other Christian literature,' she and her coworkers, while so engaged, were pro-

tected by the constitutional inhibition of laws respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press. These guaranties of freedom of religious worship, and the freedom of speech and of the press, *do not sanction trespass in the name of freedom. We must remember that personal liberty ends where the rights of others begin. The constitutional inhibition against the making of a law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, does not conflict with the law which forbids a person to trespass upon the property of another.*" (Italics supplied by us.) And we refer to the opinion in the case of *Commonwealth of Massachusetts* v. *Noah S. Richardson (Com. of Mass.* v. *Fred E. Stanton).*

The rather lengthy quotation we have set forth—especially the portion we have italicized—expresses our views better, we believe, than we could state them otherwise. It is applicable—with the substitution of our own constitutional provisions—in substance similar—for those of the State of Louisiana. And we rest our decision on what is there said.

Since appellant feels aggrieved because she is made amenable to our Statute against "trespass after warning," when, as she says, she was simply obeying the command of the Master—Jehovah God, if it pleases her—to "go ye into all the world, and preach the gospel to every creature" (Mark 16:15), we would remind her that this same Master *also cautioned* her, that "* * * whosoever shall not receive you, nor hear your words, when ye depart out of that house or city, shake off the dust of your feet" (Matthew 10:14); which we take to be an injunction not to go back on private property, after having been duly warned to stay away.

The judgment is affirmed.

Affirmed.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 1352 114

GRACE MARSH,

Appellant,

vs.

THE STATE OF ALABAMA

APPEAL FROM THE COURT OF APPEALS OF THE STATE OF ALABAMA

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM

WILLIAM N. MCQUEEN,
Acting Attorney General of Alabama,
Counsel for Appellee.

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IN THE COURT OF APPEALS OF ALABAMA

GRACE MARSH,

Appellant,

vs.

STATE OF ALABAMA,

Appellee

ON APPEAL TO THE SUPREME COURT OF THE UNITED STATES

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM THE CASE

The appellee, believing that the matters set forth below, when considered in connection with what is set out in appellant's petition, will demonstrate the lack of substance in the questions raised by this appeal, files this its statement in opposition to appellant's statement as to the jurisdiction of the Supreme Court of the United States.

The appellee includes herein its motion to dismiss the appeal or in the alternative to affirm the judgment of the Court of Appeals of the State of Alabama on the ground that the questions raised on behalf of appellant are so unsubstantial as to require dismissal of the proceedings or an affirmance of the judgment of the State Court.

The matters here relied upon by appellee are more particularly stated below.

Statement of Case

This case was set in motion by an affidavit which was as follows:

"COMPLAINT

"THE STATE OF ALABAMA
"County of Mobile.

"Personally appeared before me, Wm. J. Kern, Clerk of the Inferior Criminal Court of Mobile County, A. I. Chatham, who, on being sworn, deposes and says that he has probable cause for believing, and does believe, that within the past 12 months Grace Marsh without legal cause or good excuse and after having been warned within the past six months not to do so, entered upon the premises of the Gulf Shipbuilding Corporation, a corporation contrary to law and against the peace and dignity of the State of Alabama, and prays for a warrant for the arrest of the said Grace Marsh.

"A. I. CHATHAM.

"Sworn to and subscribed before me this 27 day of December 1943.

"W. J. KERN,
"Clerk of the Inferior Criminal
"Court of Mobile County."

(Record in the lower court, page 1.)

A writ of arrest was issued on the foregoing affidavit returnable to the Judge of the Inferior Criminal Court of Mobile County, Alabama, and the appellant taken into custody thereon. (Record in the Lower Court, page 1.)

The appellant was arraigned, tried, and a judgment of guilty rendered in the case. (Record in the Lower Court, pages 2-3.) Appellant appealed from this judgment to the Circuit Court of Mobile County (Record, pages 2 and 3.) In the Circuit Court the appeal was tried on the original

affidavit without a jury and defendant found guilty by a judgment of the Court. Thereupon she took an appeal from this judgment to the Court of Appeals of the State of Alabama. (Record, pages 9-10.) The sole basis for the affidavit and charge against the defendant in the court below was for a violation of Title 14, Section 426 of the Code of Alabama of 1940. The material part of which is as follows:

> "Any person, who without legal cause or good excuse, enters into the dwelling house or on the premises of another; after having been warned, within six months preceding, not to do so * * * shall on conviction be fined not more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months."

The record fails to show that the area owned by the Gulf Shipbuilding Corporation and the streets or roads and sidewalk where the offense was committed were ever incorporated as a municipality, and no claim to that effect has ever been claimed, nor is it connected in any way with any municipality. There is nothing in the record in the court below, which is made a part of appellant's petition, in any degree tending to show that the Gulf Shipbuilding Corporation undertook to pass any ordinance or rule and publish the same for the town of Chickasaw or that its property was within its corporate limits or jurisdiction, as appellant claims on page 2 of her petition in this proceeding. Making such a claim is wholly unfounded, and without any support from the record in the court below.

It is shown by the record below without dispute and brought into this proceeding that the appellant, when arrested, was on the sidewalk in front of the business block on these lands. (Record pages 17, 18.)

There is no denial that they were on the property and that they had been warned prior thereto not to come

upon it. The record below also shows that appellee was in possession of this entire area and this fact has never been disputed by the appellant. The record in the State Court below shows that the Gulf Shipbuilding Corporation repeatedly exercised its rights of ownership and possession and treated this area as its private property by requiring permission as to its use and some of its exercises of its rights are as follows:

The defendant with others was arrested on the property by an agent of the Shipbuilding Company. (Record page 17).

The following writing was posted on the property previous to the arrest.

"NOTICE

"THIS IS PRIVATE PROPERTY AND WITHOUT WRITTEN PERMISSION NO STREET OR HOUSE VENDOR, AGENT, OR SOLICITATION OF ANY KIND WILL BE PERMITTED.

"GULF SHIPBUILDING CORPORATION,
"HOUSING DIVISION."

That this notice was posted on several of the windows or different parts of the business houses, and that the defendant was arrested on the property. (Record pages 51, 49 and 17.)

The defendant was asked to leave the property with the statement that the Company did not allow any soliciting or selling without a permit, and she refused to do so. (Record pages 18 and 19.) The Ship Building Corporation's agent had arrested the appellant for trespass on another occasion. (Record pages 21-22.)

Peddlers, vendors, street sellers, agents, and all solicitors of every kind were requested to obtain written permission from the office of the Ship Building Company before being permitted to operate on the property. (Record

page 49.) And the appellant was again warned not to come upon the property. (Record page 50.)

The record further shows that the Gulf Shipbuilding Corporation was issuing notices to keep off the property without permits for more than a year before the Jehovah Witnesses began offering magazines on the property. (Record page 54.)

The property here involved belonged to the Tennessee Land Company in 1918, and they continued to own it for eighteen years when it was sold to Chickasaw Development Company and the latter company sold the property to the Gulf Shipbuilding Corporation. (Record page 80.) The Tennessee Land Company maintained control over the use of the property in that business area and the side-walk and roadway at all times during its ownership and required permits for selling and soliciting upon the premises. (Record page 84.) The Tennessee Land Company maintained officers and employees charged with the duty of policing the grounds. (Record page 86.) Nowhere in the record is it denied that the various owners of this property since 1918 held possession of all this property, sidewalks, roads and streets, and required permits from the Shipbuilding Company for the general public to enter thereon.

Contentions of the Parties

I

By Appellant:

That the statute of the State of Alabama (Title 14, Section 426 of the Code of Alabama) making it a crime to enter upon the premises of another after having been warned within six months preceding not to do so is in violation of the Federal Constitution guaranteeing freedom of speech and of religion because

(a) The statute on its face is violative of these constitutional provisions

(b) That as the State statute was construed by the State Court it is unconstitutional.

II

Petitioner further contends that admitting that the side-walk and road or street parallel therewith, on which the petitioner was at the time she was arrested were owned and possessed by the Gulf Shipbuilding Company, yet by reason of their use by the public the same had become a public side-walk and road.

III

Finally petitioner contends that whether this second proposition is true or not the petitioner had a constitutional right to be on the property for the purpose of propagating her religious beliefs by handing out magazines or pamphlets advocating the same.

By APPELLEE:

I

That the statute (Title 14, Section 426 of the Code of Alabama) was passed by the State Legislature in the exercise of its police powers.

II

That the First and Fourteenth Amendments to the United States Constitution by their language are limited solely to Federal and State action by way of forbidding the passage of any law respecting establishment of a religion or prohibiting the free exercise thereof or forbidding Federal or State agencies, acting under color of office, to so construe any law as to make it forbid or restrict the free exercise of religion.

III

That the constitutional provisions have other limitations. They are not to be so construed as to prohibit the passage

of a law by the State under its police power appropriately designed to reach and punish evils or to protect the property or persons of citizens.

IV

That the record shows that the place where petitioner was, at the time of arrest, was not a public place or highway.

V

At most the side-walk or road or street constituted no more than a way of necessity.

The appellee's contentions are fully supported by the following announced principles of law.

Propositions of Law One

The First and Fourteenth Amendments to the Constitution of the United States by their language are limited to Federal and State action by way of forbidding the passage of any law affecting the establishment of a religion or prohibiting the free exercise thereof and forbidding Federal or State agencies, acting under color of office, to construe any law so as to make it forbid or restrict the free exercise of religion.

Murdock v. *Pennsylvania*, 319 U. S. 105;
Jamason v. *Texas*, 318 U. S. 413;
Cantwell v. *Connecticut*, 310 U. S. 296;
Martin v. *City of Struthers*, 319 U. S. 141;
Largent v. *Texas*, 318 U. S. 418;
Carlson v. *California*, 210 U. S. 106;
Lovell v. *Griffin*, 303 U. S. 444.

Propositions of Law Two

That these constitutional provisions have other limitations. They are not to be so construed as to prohibit the

passage of a law by the State under its police power appropriately designed to reach and punish evils or to protect the property or persons of the citizens.

Sarah Prince v. *Massachusetts*, 321 U. S. 158;
Cantwell v. *Connecticut*, 310 U. S. 296;
Civil Rights Cases, 109 U. S. 17;
Fiedman's Lim. Pol. Pow. 190.

Propositions of Law Three

A public highway or place must be established in a regular proceeding for that purpose or by evidence showing it was generally used by the public continuously and uninterruptedly or by dedication of the owners of the soil and acceptance by the proper authorities.

District of Columbia v. *Roberson*, 180 U. S. 92;
Belleview Cemetery Company v. *McEvers*, 174 Ala. 457, 461.

Propositions of Law Four

To constitute dedication by prescription the roadway or place must be an open, defined roadway or place in continuous use by the Public as such without let or hindrance for a period of twenty years.

Irwin v. *Dixon*, 9 Howard 10, 30-33;
Central of Ga. Ry. Co. v. *Faulkner*, 217 Ala. 82, 84;
16 *Am. Jur.* (Dedication), § 16;
26 *C. J. S.* (Dedication), § 11.

Propositions of Law Five

To establish such a dedication the clearest intention on the part of the owners must be shown and the burden rests on the party, appellant here, claiming a right to the use thereof. To discharge this burden the evidence must be clear and cogent; the acts of the owners relied upon to es-

tablish a dedication must be convincing of an intent to dedicate the property to public use and such acts must be unequivocal to the intention to create a public right exclusive of the rights of the owner.

Town of Leeds v. *Sharp*, 218 Ala. 403, 405;
Locklin v. *Tucker*, 208 Ala. 155;
Irwin v. *Dixon*, 9 Howard 10, 30-33.

Propositions of Law Six

In case of doubt or uncertainty as to the character or use of a roadway or place it will be presumed that the use thereof was a permissive one.

Bellevue Gemetery Company v. *McEvers*, 168 Ala. 535.

Propositions of Law Seven

Where land conveyed is separated from a highway by grantor's lands and there is no established right-of-way for ingress and egress thereto, there arises by implication a way of necessity across the grantor's premises.

Hamby v. *Stepleton*, 221 Ala. 536;
17 *Am. Juris.* (Easements), Section 48, pages 959-960;
28 *C. J. S.* (Easements), Section 18, page 674.

Under the foregoing principles and Rule 12 of the Supreme Court of the United States appellee files the following motion to dismiss, or affirm the case.

Motion to Dismiss or Affirm the Case

Comes the appellee, by its attorney general, and files a motion to dismiss or in the alternative to affirm this cause on the following grounds:

1. The petition for an appeal fails to contain sufficient allegations to show that the Supreme Court of the United States has jurisdiction of this cause.

2. The petition and record in the Court of Appeals of Alabama, together with the adverse statement of matter or grounds making against the jurisdiction of the Supreme Court of the United States, filed herein by appellee, show a lack of jurisdiction to hear the cause.

3. The record fails to show that the place, side-walk or road where petitioner was trespassing was a public place or way within the meaning of the law.

4. The record shows that the premises on which petitioner was trespassing was the private property of a citizen and the legislation making it a crime to trespass thereon was duly passed under the exercise of the police power of the State.

WHEREFORE, appellee respectfully submits this statement and motion showing that the questions upon which the decision of this Court depends are so unsubstantial as to need no further argument, and appellee respectfully moves the Court to dismiss the appeal or in the alternative to affirm the judgment of the court below.

Respectfully submitted,

WILLIAM N. MCQUEEN,
Acting Attorney General.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 114

GRACE MARSH,

Appellant,

vs.

THE STATE OF ALABAMA,

Appellee

BRIEF FOR APPELLEE

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 114

GRACE MARSH,

vs. *Appellant,*

THE STATE OF ALABAMA,

Appellee

BRIEF FOR APPELLEE

Official Report of Case in Court Below

This case has not been officially published but opinion and decision of the Court of Appeals is published in 21 So. 2d. 558, 563, and certiorari denied by the Supreme Court of Alabama in 21 So. 2d. 564. The opinion of the Court of Appeals may also be found in the record in this case (R. 140-152).

Statement of Case

This case was set in motion by an affidavit which was as follows:

"THE STATE OF ALABAMA,
County of Mobile:

Personally appeared before me, Wm. J. Kern, Clerk of the Inferior Criminal Court of Mobile County, A. I. Chatham who, on being sworn, deposes and says that

he has probable cause for believing and does believe, that within the past 12 months Grace Marsh without legal cause or good excuse and after having been warned within the past six months not to do so, entered upon the premises of the Gulf Shipbuilding Corporation, a corporation contrary to law and against the peace and dignity of the State of Alabama, and prays for a warrant for the arrest of the said Grace Marsh.

A. I. CHATHAM.

"Sworn to and subscribed before me this 27 day of December, 1943.

W. J. KERN,
Clerk of the Inferior Criminal Court of Mobile County" (R. 1).

The affiant was an employee of the Gulf Shipbuilding Corporation, acting within the line of his duties (R. 11-12).

A warrant of arrest was duly issued on the affidavit, made returnable to the Judge of the Inferior Criminal Court of Mobile County, and duly executed, and judgment of conviction rendered (R. 1-2). From the judgment an appeal was taken to the Circuit Court of Mobile County, wherein it was tried by the Judge without a jury and judgment of conviction rendered. From this judgment the defendant prayed an appeal and under the law it was heard by the Court of Appeals of the State of Alabama.

The sole basis for the affidavit and charge against the defendant in the court below was for a violation of Title 14, Section 426 of the Code of Alabama 1940, the material part of which is as follows:

"Any person who, without legal cause or good excuse, enters into the dwelling house or on the premises of another, after having been warned, within six months preceding, not to do so; * * * shall, on conviction, be fined not more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to

hard labor for the county, for not more than three months."

This statute clearly shows that its purpose is aimed solely at the protection of private property and the owners thereof against trespass thereon by any person after being warned not to do so.

The record shows without dispute that the place where the appellant was alleged to have been trespassing was on the property of the Gulf Shipbuilding Corporation and under its control (R. 34-42, 32-33). The appellant's brief, in legal effect, admits these facts when it says: "Grace Marsh has the right to use the sidewalk and street of the business block in Chickasaw, Alabama, for the purpose of distributing Bible literature regardless of the private ownership and title vested in the Gulf Shipbuilding Corporation" (Brief of Appellant, page 26).

This is the central thought and theory of appellant in this Court and was in the court below—a right to go on private property although the owner objects, so long as she is propagating her religious beliefs. This was appellant's point of view when she called on Peebles to explain her rights by saying:

> "Yes sir, I reminded him we were Ordained Ministers and that was the right granted to us by the Constitution; we were commanded by Almighty God to do this and we couldn't ask man for permits to do this work; we were not peddlers and we were not soliciting for anything, we were simply there carrying on our Christian educational work in an orderly manner" (R. 64).

This statement was made by the appellant after she had been warned not to come upon the property for the purpose of solicitation or doing the works of the Almighty.

> "Q. And when they came in they told you they wanted to go ahead with that work?

"A. I don't know; I know what the substance of the conversation was but not everything said.

"Q. Just what was the substance of the conversation?

"A. They had been warned by our policemen not to come back there and were threatened with arrest and they came back to see me or sent me word, and they came in and we sat there and talked.

"Q. In that conversation didn't they tell you that they were Jehovah Witnesses?

"A. Oh! yes.

"Q. And that they were Ordained Ministers?

"A. Yes sir.

"Q. And that they were distributing these booklets in the furtherance of their religious belief and as they believed in accordance with the directions of Jehovah?

"A. I can't answer that, what all they told me; I didn't have much chance to talk; they told what they were going to do.

"Q. They did tell you the felt that it was a matter of their (fol. 59) religion, they were required to distribute these booklets?

"A. I don't know whether they told me that or not, but they told me they were going to do it and regardless, and I told them they weren't, and that is how it started" (R. 58).

Appellant's brief again announces the same doctrine under the heading "Questions presented numbered 2 and 3" (Appellant's brief, pages 10-11).

Prior to the arrest of appellant a representative of the Gulf Shipbuilding Corporation tried to get appellant to leave the premises and she would not (R. 12, 14).

The record shows that following (R. 49):

"NOTICE

"This is Private Property, and Without Written Permission, No Street, or House Vendor, Agent or Solicitation of Any Kind Will Be Permitted.

"Gulf Shipbuilding Corporation,
Housing Division."

This notice was posted on several windows on different parts of the "Business Block" (R. 19, 22, and 47). Permits were also required to sell newspapers (R. 30, at top of page 48).

The property here involved belonged to the Tennessee Land Company in 1918, and it continued to own the property until sold to the Chickasaw Development Company (R. 82, 85) which is alleged to have covered a period of twenty-three years (Appellant's brief, page 12, last paragraph).

While owned by the Tennessee Land Company it maintained control of all of this property and required permits throughout the whole time it was in charge thereof (R. 87), and maintained peace officers charged with patrolling or policing the grounds (R. 89). Nowhere in the record is it denied that the various owners of this property since 1918 required permits from the owners to enter thereon.

The "Business Block" was constructed by the Tennessee Land Company in 1921 (R. 82-83). This business block parallelled the Craft Highway and is separated from it by a strip of land thirty feet wide, which is owned by the Gulf Shipbuilding Corporation (R. 44-45). The sidewalk runs only in front of the business property the width of the building, which is about two hundred and fifty feet (R. 45).

The sidewalk is built on the Shipbuilding Corporation's property (R. 46). All the stores on this block are leased to private individuals or companies (R. 56). It is not denied that the Gulf Shipbuilding Corporation or its predecessor in title and possession constructed the sidewalks and roads here involved.

In view of the undisputed facts here stated the controlling question on this record comes to this, Was the place where the appellant was distributing the religious literature one where she had a right to be under the objections of anyone?

Stated another way, Was the place a public way or place within the meaning of the law or was it a private way or place?

If it was such a public place or way, then with some exceptions, not here involved, the First and Fourteenth Amendments to the Federal Constitution protected the appellant. If it was a private way or place then appellant stands defenseless. We may suggest that evidence was offered on these questions as shown by the record, noted above. The trial court, acting in the capacity of a jury, heard this evidence and found that the way or place was a private one. That is necessarily the effect of the judgment of conviction because the defendant was being tried for trespass upon private property. If the record shows there is any evidence that reasonably sustains the finding of the court on these questions the matter is beyond the reach of this Court.

The appellant's chief reliance, if not the sole one, rests upon the First and Fourteenth Amendments to the Constitution of the United States. And our reply to this is that these constitutional provisions deal solely with action by governmental or state action such as by its legislature in the enactment of laws or the acts of its officers in the construction and administration of the law.

The record directly or indirectly raises a number of legal principles, which we will now state and consider.

ARGUMENT

PROPOSITION OF LAW ONE.

The First and Fourteenth Amendments to the Constitution of the United States, by their language, are limited to Federal and State action by way of forbidding the passage of any law affecting the establishment of religion or prohibiting the free exercise thereof and forbidding Federal or State agencies acting under color of office to construe any law so as to make it forbid or restrict the free exercise of religion.

Virginia v. *Rives*, 100 U. S. 313, 318;
Ex Parte Virginia, 100 U. S. 346;
Home Telephone Company v. *Los Angeles*, 227 U. S. 278, 289-291.

This principle is so universally accepted by this Court and other courts that it would seem unnecessary to cite authorities or present argument. We are led to make further statement by the apparent misconception of appellant of the limitations of the principle.

As evidence of the misconception we notice a few contentions of appellant set forth in her brief. Under Point "Five" of appellant's brief it is stated that the refusal to permit preaching and the making of regulations by private persons on the property of such persons breaches the appellant's right of free speech and worship contrary to the United States Constitution (Appellant's brief, 33).

Following up this statement appellant declares "The use of these regulations * * * by both managers amounts to an out-right prohibition of the activities of Jehovah's witnesses" (Appellant's brief, 36).

It is contended by appellant that if appellee's position be sustained "private property confers the right to censor

and prohibit the exercise of civil rights thereunder.'" It is then suggested that a formidable weapon would be designed to defeat the purpose of the Constitution (Appellant's brief, 40). The appellant closes these remarkable statements by saying: "If ownership of property is the criterion by which the right to censor and prohibit the right of freedom of speech, press and worship of Almighty God is allowed then there is a probability that large portions of the State or city could be bought up by a private concern and thus the Bill of Rights defeated within those areas." The appellant treats the notice not to trespass upon the property as a regulation made by the owners (Appellant's brief, 16-17), whereas it was proper evidence on one of the ingredients of the crime of trespass after warning, as well as proper evidence on the question of whether or not the place was a public one by prescription.

PROPOSITION OF LAW TWO

These Constitutional provisions have other limitations. They are not to be so construed as to prohibit the passage of a law by the State under its police power, appropriately designed to reach and punish evils or to protect the property or persons of the citizens.

Sara Price v. *Mass.*, 321 U. S. 158;
Reynolds v. *U. S.*, 98 U. S. 145, 161-167;
Tiedman's Lim. Pol. Pow., page 171, Sec. 74;
State and Federal Control, Second Tiedman, page 205, Sec. 66.

This proposition of law may well be considered in connection with Proposition Three immediately following.

PROPOSITION OF LAW THREE

The Statute of the State of Alabama, Title 14, Section 426, of the Code of Alabama of 1940 (the Statute here involved) making it a crime for any person to enter upon the premises of another after having been warned within six months preceding not to do so, is a due exercise of the State's police powers and is not violative of the First and Fourteenth Amendments of the Constitution of the United States.

The authorities cited to Proposition of Law Two, *supra*, fully support this proposition. We will not burden the Court by making quotations therefrom. There is nothing in the plain language of the statute that authorizes the conclusion that it is intended to or does interfere with freedom of religion. Nor is it open to any sensible construction that would authorize its application so as to infringe these constitutional guarantees. Very clearly its sole purpose is to protect the freedom of the person and property of the citizen against trespass. The statute is careful to provide that there is no violation of these rights unless the trespassing party has notice or warning not to do so. The constituent elements of the statute are that there must be a trespass on private property without a lawful excuse by a person after he has been warned not to do so. This is the crime. No effort is made to deny or infringe upon or punish for religious beliefs. The statute is not dealing with and punishing parties for propagating any religious beliefs, but rather punishing the unlawful act of entering upon private property after warning not to do so. These views are fully sustained by the decisions of this Court, a few of which will now be noticed, in addition to the authorities cited under Proposition Two, *supra*.

In *Murdock* v. *Penn.*, 319 U. S. 104, the Court had under consideration a municipal ordinance (this being within the meaning of the Constitutional state action) requiring a license to solicit orders for merchandize, etc. While the Court held the ordinance violates the First and Fourteenth Amendments to the Constitution of the United States, it was careful to point out that these constitutional provisions do not protect persons from crimes; and that "Jehovah Witnesses are not above the law" (p. 116).

In *Martin* v. *Struthers*, 319 U. S. 141, the Court had under review a municipal ordinance prohibiting any person to knock on doors, ring dor bells to summon to the door the occupants for the purpose of distributing to them handbills. The Court held that the ordinance was open to a fair construction that it interfered with parties engaged in propagating their religious belief and held the ordinance invalid. The Court, however, made this significant observation, "Traditionally the American law punishes persons who enter into the property of another after having been warned by the owner to keep off" (p. 147).

This Court has consistently held that the constitutional provisions guaranteeing free speech and freedom of religion are not absolute, and that it does not place the activities of those propagating their religious beliefs beyond the reach of the state statutes passed in the due exercise of their police powers making certain acts of persons punishable as a crime.

The case at bar is not the only instance where extreme advocates have pressed the guarantee to the border line of the domain of absurdity. The case of *Chaplinsky* v. *N. H.*, 315 U. S. 568, is a striking example where one of Jehovah's Witnesses was convicted on a charge of violating a statute of New Hampshire making it a crime for any person to address any offensive, derisive or annoying words to another person who is lawfully in any street or public place.

The defendant, as a defense, claimed that at the time of using the language he was or had been preaching the true facts of the Bible and, therefore, was protected by the freedom of religion clause of the Constitution. This Court replied to this defense as follows: "We cannot conceive that cursing a public officer is the exercise of religion in any sense. But even if the activities of the appellant which preceded the incident could be viewed as religious in character and therefore entitled to the protection of the Fourteenth Amendment, they could not clothe him with immunity from the legal consequences of comitant acts committed in violation of valid criminal statute" (p. 571).

In the case of *Nuxbom* v. *City of Riverside*, 29 Fed. Supp. 3, the Court was passing upon the validity of another ordinance prohibiting the distribution in the yards or grounds of any house, porch, etc. without having obtained permission of the owner. The Court delivered a very learned and carefully prepared opinion, in which it discussed the origin and general principles of freedom of speech. Some of the most pertinent facts cover pages 6-7. We quote a few extracts.

> "The right to speak freely does not imply the right to force one's speech on another's private premises" (p. 6).
>
> "In like manner the right to distribute literature and pamphlets does not imply the right to force acceptance by placing them on another person's premises without his permission" (pp. 6-7).
>
> "Nor is any constitutional norm violated when he who would spread literature on private premises is compelled to obtain the owner's consent. A man's home is still his castle. If, to paraphrase Chatham, the King is not free to enter the humblest cottage without being guilty of trespass, what 'Divinity doth hedge the purveyor of handbills that he should be free to enter'" (p. 7).

The Court then said:

> "Yet that is exactly what the plaintiff here claims. He engages in the business of distributing advertising or other leaflets for hire. Under the claim of freedom of the press he would have us confer upon him the right to invade the property of others in the conduct of his business" (p. 7).

The Constitution in guaranteeing religious beliefs does not relieve the individual from obedience to a general law not aimed at the prevention and regulation of religious beliefs.

Minerville v. *Gobitis*, 310 U. S. 586, 594-5.

Judge Cooley in discussing the constitutional provisions guaranteeing religious freedom recognizes that the provisions are not absolute and uses substantially this language. No one can stretch his liberty so as to interfere with that of his neighbor, or violate police regulations or penal laws of the land enacted for the good order and general welfare of all the people.—*2nd Cooley, Constitutional Limitations* (8th Ed.) pp. 968-969.

PROPOSITION OF LAW FOUR

The Alabama Statute on trespass after warning creates a new offense, and it is explicit and complete, leaving nothing in doubt or uncertainty as to what conduct will render a trespasser liable to its penalties. Under this statute a person before entering has full knowledge that it is criminal to do so.

Connelly v. *General Construction Company*, 269 U. S. 385, 391-393.

Toger v. *U. S.*, 52 Fed. 917, 919-920.

The appellant has made an alternative effort to show that the place where she was distributing the religious literature

was a public street or sidewalk. To meet and answer this contention we state the following propositions of law.

PROPOSITION OF LAW FIVE

A public highway or place must be established in a regular proceeding for the purpose or by evidence showing that it was generally used by the public continuously and uninterruptedly or by dedication of the owner of the soil and acceptance by the proper authorities.

District of Columbia v. *Roberson*, 180 U. S. 92;
Belle View Cemetery v. *McEvers*, 174 Ala. 457, 461.

PROPOSITION OF LAW SIX

To constitute dedication by prescription the roadway or place must be an open, defined roadway or place in continuous use by the public without let or hindrance for a period of twenty years.

Irwin v. *Dixon*, 9 How. 10, 30-33.
Central of Georgia Railroad Company v. *Faulkner*, 217 Ala. 82-84;
16 *Am. Juris.* (Dedication), Sec. 46;
26 *C. J. S.* (Dedication), Sec. 11.

PROPOSITION OF LAW SEVEN

To establish such a dedication the clearest intention on the part of the owner must be shown. And the burden rests on the party (appellant here) claiming a right to the use thereof. To discharge this burden the evidence must be clear and cogent. The acts of the owner relied upon to establish dedication must be convincing of an intent to dedicate the property to public use and such acts must be unequivocal to the intention to create a public right exclusive of rights of the owner.

Town of Leeds v. *Sharpe*, 218 Ala. 403, 405;
Locklin v. *Tucker*, 208 Ala. 155;
Irwin v. *Dixon*, 9 How. 10, 30-33.

PROPOSITION OF LAW EIGHT

In case of doubt or uncertainty as to the character of use of roadway or place it will be presumed that the use thereof was a permissive one.

Bellevue Cemetery Company v. *McEvers*, 168 Ala. 535.

Propositions of Law Five–Eight may be considered together.

There is no evidence or claim in the record or brief in this case that there was ever any establishment of the sidewalk or street referred to in this case by any legal proceedings looking to that end, nor is there any evidence or claim that the State, county, or any municipal corporation ever made any effort to set apart this sidewalk or street for the use of the public, nor is there any evidence that the owners of the property ever platted the property showing the likely use of any streets or sidewalks or prepared and filed any maps covering this property or that it sold

or offered for sale any lands or lots with reference to this sidewalk or street on this property. Under this state of the record and case we must look elsewhere for evidence to show this sidewalk or street had been legally established for use by the general public. Under the authorities cited, *supra*, this may and must be done by finding in the record evidence that clearly shows an intention on the part of the owners to dedicate the sidewalk and street to the general use of the public and this must be done by evidence showing they have been generally used by the public continuously and uninterruptedly as such without let or hindrance for a period of twenty years. The burden is on the appellant to establish each and all of these essential elements by evidence that is clear and cogent, and the acts of the owners relied upon to establish the dedication must be convincing of an intention to dedicate the sidewalk and street on the land to public use and the acts must be unequivocal to the intention *to create a public right exclusive of the rights of the owners.* If there is any doubt or uncertainty as to the *character* or use of the sidewalk or street the law steps in and says that it will be presumed that the use was *permissive.*

When these settled principles of law are applied to the facts shown by the record in this case the conclusion must follow that this sidewalk and street had never been dedicated in any manner to the use of the general public within the meaning of the law. On the trial below there was some evidence of the use of the sidewalk and street by the public (R. 24, 25, 74 and 80). We have recited this evidence in our "Statement of the Case" and will not burden the Court by its repetition. However, when it is considered as a whole it is, at best, very inconclusive and falls far short of the requirements of the law as set forth in these Propositions of Law (Five–Eight), *supra.*

The record presents the legal question that the sidewalk and street were merely a way of necessity. This question will be discussed later under that title. When viewed in that light it becomes clear that the use of the sidewalk and street is controlled by this state principle of law. In any event the contention that the sidewalk and street were public ways devoted to the use of the general public is completely and conclusively met by the evidence in this record.

The record shows that the property here involved belonged to the Tennessee Land Company from 1918 until sold to the Chickasaw Development Company (R. 82, 85), and that while so owned the company maintained control of all of the property in its entirety on which the sidewalk and street were located and required permits to enter upon the lands throughout the whole time it was in charge of it (R. 87); and it maintained peace officers charged with patrolling or policing the grounds (R. 89). The appellant admits that the Tennessee Land Company was in control for twenty-three years (Appellant's Brief, page 12).

The appellant was told by the Superintendent of the Gulf Shipbuilding Corporation prior to this arrest not to come on the property (R. 48), and the Corporation had posted a notice on the property that the property was private and that without permission no street or house vendor, agent or solicitor of any kind would be permitted (R. 49). The record fails to deny in any manner whatever that during all the period of time here involved that permission to enter for such purposes must be had.

PROPOSITION OF LAW NINE

The alleged sidewalk and street were not public highways but were ways of necessity created by operation of law for the use and benefit of tenants of the Gulf Shipbuilding Corporation.

The law defines a "way of necessity" as being an easement arising from an implied grant or implied reservation that is the result of the application of the principle that wherever a party conveys property he conveys whatever is necessary for the beneficial use of that property.

17 *Am. Juris.* (Easements), Section 48, pages 959, 960;
28 *C. J. S.* (Easements), Section 35, pages 695-696.

The rule applies as well to leases as to conveyances of title.

28 *C. J. S.* (Easements), Section 36, pages 699-700.

It is a universally established principle that where a tract of land is conveyed which is separated from the highway by other lands of the grantor, or surrounded by his lands, or by his and those of third persons, there arises by implication in favor of the grantee a way of necessity across the premises of the grantor to the highway. To state it in another form, if one grants a piece of land in the midst of his own he thereby impliedly grants a way to reach it.

17 *Am. Juris.* (Eastments, Section 48, pages 960-961;
Hamby v. *Templeton*, 221 Ala. 536, 537.

A right of way of necessity over another's lands is distinguished from a right of way by prescription, and cannot ripen into a prescriptive easement while the necessity continues.

28 *C. J. S.* (Easements), Section 18(k), page 674.

There are valuable notes to this Section 18(k), page 674, aptly distinguishing the difference in such ways of necessity and a public way by prescription. The two are founded on entirely different principles of law. The public may use a way of necessity for ingress and egress to the home or place of business of the tenant solely for social or business purposes. This is for the benefit of the tenant, but it does not follow that the general public may enter upon the property for any purpose foreign to any of the incident benefits and rights of the tenant, for general use of such ways by the general public rests entirely with the consent of the dominant owner of the property over which the way of necessity runs. He may exercise this consent by allowing one person or class of persons to use the way and by denying it to another. Or he may deny the use altogether for the general purposes of the public.

The appellant at the time of her arrest was not on the premises for business or social purposes with any of the tenants or by their invitation. That is established by her own mouth by the record (R. 61).

> "Q. What were you doing at the time of your arrest on December 24th?
>
> "A. I was standing on the sidewalk in Chickasaw offering——
>
> "Q. Where on the sidewalk were you standing?
>
> "A. On the outer edge by a post.
>
> "Q. You mean the curb?
>
> "A. By the curb, yes, and I was offering this magazine, I was calling to the passers by as they came by, 'Watchtower, announcing Jehovah's Kingdom,' and this offers the only hope——"

PROPOSITION OF LAW TEN

The Court below heard this case without a jury and was the trier of the facts. It heard all the evidence and passed upon its weight on the question of the character of the place where appellant was arrested, and determined that the sidewalk and street were located on the private property of the Gulf Shipbuilding Corporation.

This Court has universally held that it will not review the finding of a jury on facts properly submitted to them if there is any evidence reasonably supporting the verdict.

First Unitarian Society of Chicago v. *Faulkner*, 91 U. S. 415, 432;

Nudd v. *Burrows, Assignee*, 91 U. S. 426, 439;

Lincoln v. *Claflin*, 74 U. S. 132, 136.

Under these authorities it is evident that the finding of the court that appellant was trespassing upon the property of the Gulf Shipbuilding Corporation after warning ends all question in this Court as to the character of the place where appellant was at the time of her arrest.

Under all the facts in the record and the authorities herein cited it is evident that the Alabama statute making it a crime to trespass upon the property of another after warning not to do so is a constitutional exercise of its police powers and that it was not so construed and enforced as to violate appellant's constitutional guarantees. The judgment of the appellate courts below are due to be affirmed.

Respectfully submitted,

WILLIAM N. MCQUEEN,
Attorney General;

JOHN O. HARRIS,
Assistant Attorney General.

W. W. CALLAHAN,
Assistant Attorney General,
Of Counsel.

Certificate

I certify that on this date I sent a typewritten copy of the foregoing brief by mail, postage prepaid, to Hayden Covington at 117 Adams Street, Brooklyn 1, New York.

Dated November 30, 1945.

W. W. CALLAHAN,
Assistant Attorney General
of Alabama.

Concurring opinion

SUPREME COURT OF THE UNITED STATES.

No. 114.—October Term, 1945.

Grace Marsh, Appellant, vs. The State of Alabama. } On Appeal from the Court of Appeals of the State of Alabama.

[January 7, 1946.]

Mr. Justice Black delivered the opinion of the Court.

In this case we are asked to decide whether a State, consistently with the First and Fourteenth Amendments, can impose criminal punishment on a person who undertakes to distribute religious literature on the premises of a company-owned town contrary to the wishes of the town's management. The town, a suburb of Mobile, Alabama, known as Chickasaw, is owned by the Gulf Shipbuilding Corporation. Except for that it has all the characteristics of any other American town. The property consists of residential buildings, streets, a system of sewers, a sewage disposal plant and a "business block" on which business places are situated. A deputy of the Mobile County Sheriff, paid by the company, serves as the town's policeman. Merchants and service establishments have rented the stores and business places on the business block and the United States uses one of the places as a post office from which six carriers deliver mail to the people of Chickasaw and the adjacent area. The town and the surrounding neighborhood, which can not be distinguished from the Gulf property by anyone not familiar with the property lines, are thickly settled, and according to all indications the residents use the business block as their regular shopping center. To do so, they now, as they have for many years, make use of a company-owned paved street and sidewalk located alongside the store fronts in order to enter and leave the stores and the post office. Intersecting company-owned roads at each end of the business block lead into a four-lane public highway which runs parallel to the business block at a distance of thirty feet. There is nothing to stop highway traffic from coming onto the business block and upon arrival a traveler may make free use of the facilities available there. In short the town and its shopping district are accessible to and freely used by the public in general and there is nothing to distinguish them from

any other town and shopping center except the fact that the title to the property belongs to a private corporation.

Appellant, a Jehovah's Witness, came onto the sidewalk we have just described, stood near the post-office and undertook to distribute religious literature. In the stores the corporation had posted a notice which read as follows: "This Is Private Property, and Without Written Permission, No Street or House Vendor, Agent or Solicitation of Any Kind Will Be Permitted." Appellant was warned that she could not distribute the literature without a permit and told that no permit would be issued to her. She protested that the company rule could not be constitutionally applied so as to prohibit her from distributing religious writings. When she was asked to leave the sidewalk and Chickasaw she declined. The deputy sheriff arrested her and she was charged in the state court with violating Title 14, Section 426 of the 1940 Alabama Code which makes it a crime to enter or remain on the premises of another after having been warned not to do so. Appellant contended that to construe the state statute as applicable to her activities would abridge her right to freedom of press and religion contrary to the First and Fourteenth Amendments to the Constitution. This contention was rejected and she was convicted. The Alabama Court of Appeals affirmed the conviction, holding that the statute as applied was constitutional because the title to the sidewalk was in the corporation and because the public use of the sidewalk had not been such as to give rise to a presumption under Alabama law of its irrevocable dedication to the public. — Ala. App. —, 21 So. 2d 558. The State Supreme Court denied certiorari. — Ala. —, 21 So. 2d 564, and the case is here on appeal under Section 237(a) of the Judicial Code, 28 U. S. C. § 344(a).

Had the title to Chickasaw belonged not to a private but to a municipal corporation and had appellant been arrested for violating a municipal ordinance rather than a ruling by those appointed by the corporation to manage a company-town it would have been clear that appellant's conviction must be reversed. Under our decision in *Lovell* v. *Griffin*, 303 U. S. 444 and others which have followed that case,[1] neither a state nor a municipality can com-

[1] Hague *v.* C. I. O., 307 U. S. 496; Schneider *v.* State, 308 U. S. 147; Thornhill *v.* Alabama, 310 U. S. 88; Cantwell v. Connecticut, 310 U. S. 296; dissent of Chief Justice Stone in Jones *v.* Opelika, 316 U. S. 584, 600, adopted as the opinion of the Court, 319 U. S. 103; Largent *v.* Texas, 318 U. S. 418; Murdock *v.* Pennsylvania, 319 U. S. 105; Follett *v.* McCormick, 321 U. S. 573.

pletely bar the distribution of literature containing religious or political ideas on its streets, sidewalks and public places or make the right to distribute dependent on a flat license tax or permit to be issued by an official who could deny it at will. We have also held that an ordinance completely prohibiting the dissemination of ideas on the city streets can not be justified on the ground that the municipality holds legal title to them. *Jamison* v. *Texas*, 318 U. S. 413. And we have recognized that the preservation of a free society is so far dependent upon the right of each individual citizen to receive such literature as he himself might desire that a municipality could not without jeopardizing that vital individual freedom, prohibit door to door distribution of literature. *Martin* v. *Struthers*, 319 U. S. 141, 146, 147. From these decisions it is clear that had the people of Chickasaw owned all the homes, and all the stores, and all the streets, and all the sidewalks, all those owners together could not have set up a municipal government with sufficient power to pass an ordinance completely barring the distribution of religious literature. Our question then narrows down to this: Can those people who live in or come to Chickasaw be denied freedom of press and religion simply because a single company has legal title to all the town? For it is the state's contention that the mere fact that all the property interests in the town are held by a single company is enough to give that company power, enforceable by a state statute, to abridge these freedoms. We do not agree that the corporation's property interests settle the question.[2] The State urges in effect that the corporation's right to control the inhabitants of Chickasaw is coextensive with the right of a homeowner to regulate the conduct of his guests. We can not accept that contention. Ownership does not always mean absolute dominion. The more an owner, for his advantage, opens up his property for use by the public in general, the more

[2] We do not question the State court's determination of the issue of "dedication." That determination means that the corporation could if it so desired, entirely close the sidewalk and the town to the public and is decisive of all questions of state law which depend on the owner's being estopped to reclaim possession of, and the public's holding the title to, or having received an irrevocable easement in, the premises. Demopolis v. Webb, 87 Ala. 659; Hamilton v. Town of Warrior, 215 Ala. 670; Town of Reeds v. Sharp, 218 Ala. 403, 405; Forney v. Calhoun County, 84 Ala. 215; Cloverdale Homes v. Cloverdale, 182 Ala. 419. The "dedication" of a road to the public may also be decisive of whether, under Alabama law, obstructing the road constitutes a crime, Beverly v. State, 28 Ala. App. 451, and whether certain action on or near the road amounts to a tort. Thrasher v. Burr, 202 Ala. 307. But determination of the issue of "dedication" does not decide the question under the Federal Constitution here involved.

do his rights become circumscribed by the statutory and constitutional rights of those who use it. Cf. *Republic Aviation Corp.* v. *N. L. R. B.*, 65 S. Ct. (Adv. Sheets) 982, 985, 987 n. 8. Thus, the owners of privately held bridges, ferries, turnpikes and railroads may not operate them as freely as a farmer does his farm. Since these facilities are built and operated primarily to benefit the public and since their operation is essentially a public function, it is subject to state regulation.[3] And, though the issue is not directly analogous to the one before us we do want to point out by way of illustration that such regulation may not result in an operation of these facilities, even by privately owned companies, which unconstitutionally interferes with and discriminates against interstate commerce. *Port Richmond Ferry* v. *Hudson County, supra*, 234 U. S. at 326 and cases cited, pp. 328-329; cf. *South Carolina Highway Department* v. *Barnwell Brothers*, 303 U. S. 177. Had the corporation here owned the segment of the four-lane highway which runs parallel to the "business block" and operated the same under a State franchise, doubtless no one would have seriously contended that the corporation's property interest in the highway gave it power to obstruct through traffic or to discriminate against interstate commerce. See *County Commissioners* v. *Chandler*, 96 U. S. 205, 208; *Donovan v. Pennsylvania Co., supra*, 199 U. S. at 294; *Covington Drawbridge Co.* v. *Shepherd*, 21 How. 112, 125. And even had there been no express franchise but mere acquiescence by the State in the corporation's use of its property as a segment of the four-lane highway, operation of all the highway, including the segment owned by the corporation, would still have been performance of a public function and discrimination would certainly have been illegal.[4]

[3] Clark's Ferry Bridge Co. *v.* Public Service Commission of Pennsylvania, 291 U. S. 227; American Toll Bridge Co. *v.* Railroad Commission of California, 307 U. S. 486; Mills et al. *v.* St. Clair County et al., 8 How. 569, 581; Port Richmond Ferry *v.* Hudson County, 234 U. S. 317, 327, 331-332; Covington & L. Turnpike Road Co. *v.* Sanford, 164 U. S. 578; Norfolk & S. Turnpike Co. *v.* Virginia, 225 U. S. 264; Donovan *v.* Pennsylvania Co., 199 U. S. 279, and cases cited on pp. 293-295.

[4] And certainly the corporation can no more deprive people of freedom of press and religion than it can discriminate against commerce. In his dissenting opinion in Jones *v.* Opelika, 316 U. S. 584, 600, which later was adopted as the opinion of the Court, 319 U. S. 103, 104, Mr. Chief Justice Stone made the following pertinent statement: "Freedom of press and religion, explicitly guaranteed by the Constitution, must at least be entitled to the same freedom from burdensome taxation which it has been thought that the more general phraseology of the commerce clause has extended to interstate com-

We do not think it makes any significant constitutional difference as to the relationship between the rights of the owner and those of the public that here the State, instead of permitting the corporation to operate a highway, permitted it to use its property as a town, operate a "business block" in the town and a street and sidewalk on that business block. Cf. *Barney* v. *Keokuk*, 94 U. S. 324, 340. Whether a corporation or a municipality owns or possesses the town the public in either case has an identical interest in the functioning of the community in such manner that the channels of communication remain free. As we have heretofore stated, the town of Chickasaw does not function differently from any other town. The "business block" serves as the community shopping center and is freely accessible and open to the people in the area and those passing through. The managers appointed by the corporation cannot curtail the liberty of press and religion of these people consistently with the purposes of the Constitutional guarantees, and a state statute, as the one here involved, which enforces such action by criminally punishing those who attempt to distribute religious literature clearly violates the First and Fourteenth Amendments to the Constitution.

Many people in the United States live in company-owned towns.[5] These people, just as residents of municipalities, are free citizens of their State and country. Just as all other citizens they must make decisions which affect the welfare of community and nation. To act as good citizens they must be informed. In order to enable them to be properly informed their information must be uncen-

merce. Whatever doubts may be entertained as to this Court's function to relieve, unaided by Congressional legislation, from burdensome taxation under the commerce clause, see Gwin, White & Prince, Inc. v. Henneford, 305 U. S. 434, 441, 446-55; McCarroll v. Dixie Lines, 309 U. S. 176, 184-85, it cannot be thought that that function is wanting under the explicit guaranties of freedom of speech, press and religion." 316 U. S. at 610-11.

[5] In the bituminous coal industry alone, approximately one-half of the miners in the United States lived in company-owned houses in the period from 1922-23. The percentage varied from 9 per cent in Illinois and Indiana and 64 per cent in Kentucky, to almost 80 per cent in West Virginia. U. S. Coal Commission, Report, 1925, Part III, pp. 1467, 1469 summarized in Morris, The Plight of the Coal Miner, Philadelphia 1934, Ch. VI, p. 86. The most recent statistics we found available are in Magnusson, Housing by Employers in the United States, Bureau of Labor Statistics Bulletin No. 263 (Misc. Ser.) p. 11. See also United States Department of Labor, Wage and Hour Division, Data on Pay Roll Deductions, Union Manufacturing Company, Union Point, Georgia, June 1941; Rhyne, Some Southern Cotton Mill Workers and Their Villages, Chapel Hill, 1930 (Study completed under the direction of the Institute for Research in Social Science at the University of North Carolina); Comment, *Urban Redevelopment*, 54 Yale L. J. 116.

sored. There is no more reason for depriving these people of the liberties guaranteed by the First and Fourteenth Amendments than there is for curtailing these freedoms with respect to any other citizen.[6]

When we balance the Constitutional rights of owners of property against those of the people to enjoy freedom of press and religion, as we must here, we remain mindful of the fact that the latter occupy a preferred position.[7] As we have stated before, the right to exercise the liberties safeguarded by the First Amendment "lies at the foundation of free government by free men" and we must in all cases "weigh the circumstances and appraise the reasons in support of the regulation of those rights." *Schneider* v. *State*, 308 U. S. 147, 161. In our view the circumstance that the property rights to the premises where the deprivation of liberty, here involved, took place, were held by others than the public, is not sufficient to justify the State's permitting a corporation to govern a community of citizens so as to restrict their fundamental liberties and the enforcement of such restraint by the application of a State statute. Insofar as the State has attempted to impose criminal punishment on appellant for undertaking to distribute religious literature in a company town, its action cannot stand. The case is reversed and the cause remanded for further proceedings not inconsistent with this opinion.

Reversed and remanded.

Mr. Justice JACKSON took no part in the consideration or decision of this case.

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[6] As to the suppression of civil liberties in company towns and the need of those who live there for Constitutional protection, see the summary of facts aired before the Senate, Committee on Education and Labor, *Violations of Free Speech and Rights of Labor*, Hearings pursuant to S. Res. 266, summarized in Bowden, *Freedom for Wage Earners*, Annals of The American Academy of Political and Social Science, Nov. 1938, p. 185; Z. Chafee, *The Inquiring Mind* (New York, 1928), pp. 173-74; Pamphlet published in 1923 by the Bituminous Operators' Special Committee under the title *The Company Town*; U. S. Coal Commission, Report, supra, Part III, p. 1331.

[7] Jones *v.* Opelika, *supra*, 316 U. S. at 608; Murdock *v.* Pennsylvania, *supra*, 319 U. S. at 115; Follett *v.* McCormick, *supra*, 321 U. S. at 577.

SUPREME COURT OF THE UNITED STATES.

No. 114.—October Term, 1945.

George Marsh, Appellant, vs. The State of Alabama. } On Appeal from the Court of Appeals of the State of Alabama.

[January 7, 1946.]

Mr. Justice Frankfurter, concurring.

So long as the views which prevailed in *Jones* v. *Opelika*, 319 U. S. 103, in connection with 316 U. S. 584, 600; *Murdock* v. *Pennsylvania*, 319 U. S. 105; *Martin* v. *Struthers*, 319 U. S. 141, express the law of the Constitution, I am unable to find legal significance in the fact that a town in which the Constitutional freedoms of religion and speech are invoked happens to be company-owned. These decisions accorded the purveyors of ideas, religious or otherwise, "a preferred position": *Murdock* v. *Pennsylvania*, *supra* at 115, even to the extent of relieving them from an unhampering and non-discriminatory duty of bearing their share of the cost of maintaining the peace and the other amenities of a civilized society. Constitutional privileges having such a reach ought not to depend upon a State court's notion of the extent of "dedication" of private property to public purposes. Local determinations of such technical matters govern controversies affecting property. But when decisions by State courts involving local matters are so interwoven with the decision of the question of Constitutional rights that one necessarily involves the other, State determination of local questions cannot control the Federal Constitutional right.

A company-owned town gives rise to a net-work of property relations. As to these, the judicial organ of a State has the final say. But a company-owned town is a town. In its community aspects it does not differ from other towns. These community aspects are decisive in adjusting the relations now before us, and more particularly in adjudicating the clash of freedoms which the Bill of Rights was designed to resolve—the freedom of the community to regulate its life and the freedom of the individual to exercise his religion and to disseminate his ideas. Title to property as defined

by State law controls property relations; it cannot control issues of civil liberties which arise precisely because a company town is a town as well as a congeries of property relations. And similarly the technical distinctions on which a finding of "trespass" so often depends are too tenuous to control decision regarding the scope of the vital liberties guaranteed by the Constitution.

Accordingly, as I have already indicated, so long as the scope of the guarantees of the Due Process Clause of the Fourteenth Amendment by absorption of the First remains that which the Court gave to it in the series of cases in the October Term, 1942, the circumstances of the present case seem to me clearly to fall within it. And so I agree with the opinion of the Court, except that portion of it which relies on arguments drawn from the restrictions which the Commerce Clause imposes on State regulation of commerce. It does not seem to me to further constitutional analysis to seek help for the solution of the delicate problems arising under the First Amendment from the very different order of problems which the Commerce Clause presents. The latter involves an accommodation between National and State powers operating in the same field. Where the First Amendment applies, it is a denial of all governmental power in our Federal system.

SUPREME COURT OF THE UNITED STATES.

No. 114.—October Term, 1945.

Grace Marsh, Appellant, vs. State of Alabama. } On Appeal from the Court of Appeals of the State of Alabama.

[January 7, 1946.]

Mr. Justice Reed, dissenting.

Former decisions of this Court have interpreted generously the Constitutional rights of people in this Land to exercise freedom of religion, of speech and of the press.[1] It has never been held and is not now by this opinion of the Court that these rights are absolute and unlimited either in respect to the manner or the place of their exercise.[2] What the present decision establishes as a principle is that one may remain on private property against the will of the owner and contrary to the law of the state so long as the only objection to his presence is that he is exercising an asserted right to spread there his religious views. See *Marrone* v. *Washington Jockey Club*, 227 U. S. 633. This is the first case to extend by law the privilege of religious exercises beyond public places or to private places without the assent of the owner. Compare *Martin* v. *Struthers*, 319 U. S. 141.

As the rule now announced permits this intrusion, without possibility of protection of the property by law, and apparently is equally applicable to the freedom of speech and the press, it seems appropriate to express a dissent to this, to us, novel Constitutional doctrine. Of course, such principle may subsequently be restricted by this Court to the precise facts of this case—that is to private property in a company town where the owner for his own advantage has permitted a restricted public use by his licensees and invitees. Such distinctions are of degree and require new arbitrary lines, judicially drawn, instead of those hitherto established

[1] Lovell v. Griffin, 303 U. S. 444; Hague v. C. I. O., 307 U. S. 496; Schneider v. State, 308 U. S. 147; Thornhill v. Alabama, 310 U. S. 88; Cantwell v. Connecticut, 310 U. S. 296; dissent of Chief Justice Stone in Jones v. Opelika, 316 U. S. 584, 600, adopted as the opinion of the Court, 319 U. S. 103; Jamison v. Texas, 318 U. S. 413; Largent v. Texas, 318 U. S. 418; Murdock v. Pennsylvania, 319 U. S. 105; Martin v. Struthers, 319 U. S. 141; Follett v. McCormick, 321 U. S. 573.

[2] Schenck v. U. S., 249 U. S. 47; Gitlow v. N. Y., 268 U. S. 652; Near v. Minnesota, 283 U. S. 697; Cantwell v. Connecticut, 310 U. S. 296; Chaplinsky v. New Hampshire, 315 U. S. 568; Prince v. Mass., 321 U. S. 158.

by legislation and precedent. While the power of this Court, as the interpreter of the Constitution to determine what use of real property by the owner makes that property subject, at will, to the reasonable practice of religious exercises by strangers, cannot be doubted, we find nothing in the principles of the First Amendment, adopted now into the Fourteenth, which justifies their application to the facts of this case.[3]

Both Federal and Alabama law permit, so far as we are aware, company towns. By that we mean an area occupied by numerous houses, connected by passways, fenced or not, as the owners may choose. These communities may be essential to furnish proper and convenient living conditions for employees on isolated operations in lumbering, mining, production of high explosives and large-scale farming. The restrictions imposed by the owners upon the occupants are sometimes galling to the employees and may appear unreasonable to outsiders. Unless they fall under the prohibition of some legal rule, however, they are a matter for adjustment between owner and licensee, or by appropriate legislation. Compare *Western Turf Ass'n* v. *Greenberg*, 204 U. S. 359.

Alabama has a statute generally applicable to all privately owned premises. It is Title 14, Section 426, Alabama Code 1940 which so far as pertinent reads as follows:

> "Trespass after warning.—Any person who, without legal cause or good excuse, enters into the dwelling house or on the premises of another, after having been warned, within six months preceding, not to do so; or any person, who, having entered into the dwelling house or on the premises of another without having been warned within six months not to do so, and fails or refuses, without legal cause or good excuse, to leave immediately on being ordered or requested to do so by the person in possession, his agent or representative, shall, on conviction, be fined not more than one hundred dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than three months."

Appellant was distributing religious pamphlets on a privately owned passway or sidewalk thirty feet removed from a public highway of the State of Alabama and remained on these private premises after an authorized order to get off. We do not understand from the record that there was objection to appellant's use of the nearby public highway and under our decisions she could rightfully have

[3] "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." First Amendment to the Constitution.

continued her activities a few feet from the spot she insisted upon using. An owner of property may very well have been willing for the public to use the private passway for business purposes and yet have been unwilling to furnish space for street trades or a location for the practice of religious exhortations by itinerants. The passway here in question was not put to any different use than other private passways that lead to privately owned areas, amusement places, resort hotels or other businesses. There had been no dedication of the sidewalk to the public use, express or implied. Alabama so decided and we understand that this Court accepts that conclusion. Alabama, also, decided that appellant violated by her activities the above quoted state statute.

The Court calls attention to the fact that the owners of public utilities, bridges, ferries, turnpikes and railroads are subject to state regulation of rates and are forbidden to discriminate against interstate commerce. This is quite true but we doubt if the Court means to imply that the property of these utilities may be utilized, against the companies' wishes for religious exercises of the kind in question.

A state does have the moral duty of furnishing the opportunity for information, education and religious enlightenment to its inhabitants, including those who live in company towns, but it has not heretofore been adjudged that it must commandeer, without compensation the private property of other citizens to carry out that obligation. Heretofore this Court has sustained the right of employees, under an appropriate statute, protecting full freedom of employee organization, to solicit union membership in nonworking time on the property of an employer and against his express prohibition. This is because the prohibition is an impediment to the right of organization which is protected by a statute which governs a relation between employers and employees if and when the latter are admitted to the employers' premises as licensees. It was recognized in the opinion that the freedom of solicitation was the result of a regulatory statute and was not a Constitutional right. *Republic Aviation Corp.* v. *Labor Board*, 65 S. Ct. 982, 988. In the area which is covered by the guarantees of the First Amendment, this Court has been careful to point out that the owner of property may protect himself against the intrusion of strangers. Although in *Martin* v. *Struthers*, 319 U. S. 141, an ordinance forbidding the summonsing of the occupants of a dwelling to receive handbills was held invalid because in conflict with the freedom of speech and press, this Court pointed out at page 147 that after

warning the property owner would be protected from annoyance.[4] The very Alabama statute which is now held powerless to protect the property of the Gulf Shipbuilding Corporation, after notice, from this trespass was there cited, note 10, to show that it would protect the householder, after notice. The right to communicate ideas was expressed by us in *Jamison* v. *Texas*, 318 U. S. 413, 416, as follows: "But one who is rightfully on a street which the state has left open to the public carries with him there as elsewhere the Constitutional right to express his views in an orderly fashion."

Our Constitution guarantees to every man the right to express his views in an orderly fashion. An essential element of "orderly" is that the man shall also have a right to use the place he chooses for his exposition. The rights of the owner, which the Constitution protects as well as the right of free speech, are not outweighed by the interests of the trespasser, even though he trespasses in behalf of religion or free speech. We cannot say that Jehovah's Witnesses can claim the privilege of a license, which has never been granted, to hold their meetings in other private places, merely because the owner has admitted the public to them for other limited purposes. Even though we have reached the point where this Court is required to force private owners to open their property for the practice there of religious activities or propaganda distasteful to the owner, because of the public interest in freedom of speech and religion, there is no need for the application of such a doctrine here. Appellant, as we have said, was free to engage in such practices on the public highways, without becoming a trespasser on the company's property.

The CHIEF JUSTICE and MR. JUSTICE BURTON join in this dissent.

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[4] "The dangers of distribution can so easily be controlled by traditional legal methods, leaving to each householder the full right to decide whether he will receive strangers as visitors, that stringent prohibition can serve no purpose but that forbidden by the Constitution, the naked restriction of the dissemination of ideas.

"Traditionally the American law punishes persons who enter onto property of another after having been warned by the owner to keep off. General trespass after warning statutes exist in at least twenty states, while similar statutes of narrower scope are on the books of at least twelve states more. We know of no state which, as does the Struthers ordinance in effect, makes a person a criminal trespasser if he enters the property of another for an innocent purpose without an explicit command from the owners to stay away. The National Institute of Municipal Law Officers has proposed a form of regulation to its member cities which would make it an offense for any person to ring the bell of a householder who has appropriately indicated that he is unwilling to be disturbed. This or any similar regulation leaves the decision as to whether distributers of literature may lawfully call at a home where it belongs with the homeowner himself." *Martin* v. *Struthers*, 319 U. S. 141, 147-48.